



Western Reserve Land Conservancy  
Thriving Communities Institute

A program of Western Reserve Land Conservancy

February 27, 2015

Armond Budish, Cuyahoga County Executive  
Cuyahoga County Administrative Headquarters  
2079 East Ninth Street  
Cleveland, Ohio 44115

Dear County Executive Budish:

At the end of 2014, the County's delinquent property tax balance stood at a staggering \$578 million. There are now over 37,000 residential tax delinquent parcels, and the County currently has the capacity to foreclose on 2,200 units in any given year. This leaves a tremendous gap in the County's tax collection efforts. Between 2011 and 2013 the County and its taxing districts recouped \$58,429,368.13 of delinquent tax revenue through the sale of tax liens.

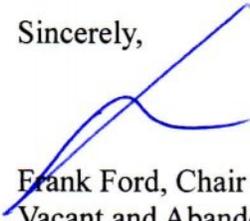
Cities throughout the County are experiencing financial shortfalls, with several inner ring suburbs having been placed in Fiscal Emergency. Property tax revenue is crucial to maintaining essential services and tax lien sales are an efficient means of quickly recouping a portion of this revenue. Everything comes at a price however, and it's critical to carefully examine the effects of tax lien sales on the community and the long-term impacts on the tax base.

In 2013 The Washington Post published a scathing article on the damaging effects of tax lien sales, including a follow up report focusing on Cuyahoga County. The Legal Aid Society of Cleveland, The Legal Defense Fund of the NAACP and the Cleveland Chapter of the NAACP have all raised concerns about the possible negative consequences of tax lien sales, especially among vulnerable groups.

The Vacant and Abandoned Property Action Council began analyzing tax lien sales upon their reinstatement in 2011, and began a detailed study of the process in the summer of 2014 with the cooperation of County Executive Ed FitzGerald. The resulting study, which is attached for your review, represents hundreds of hours of analysis and research on the part of the Study Committee. As detailed as it is, it is merely a starting point for the hard work that must be undertaken by the new County administration to carefully analyze these issues and make decisions about the best way to move forward.

The members of VAPAC stand ready to assist the administration in any way needed, and look forward to collaborating on ways to strengthen neighborhoods throughout the County.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Frank Ford', with a long, sweeping underline that extends to the right.

Frank Ford, Chair  
Vacant and Abandoned Property Action Council (VAPAC)

Senior Policy Advisor,  
Thriving Communities Institute

# Property Tax Delinquency And Tax Lien Sales In Cuyahoga County, Ohio

Prepared by the Vacant and Abandoned Property Action Council

March 1, 2015

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## Executive Summary

As of February 22, 2015, \$578 million in delinquent property taxes was owed to Cuyahoga County. The functioning of many divisions of government—municipalities, schools, libraries, Metroparks, the Port Authority, Cuyahoga Community College, and the County itself—depends on the County’s ability to recover this delinquent tax revenue. The question is how best to accomplish this.

This alarming level of tax delinquency was the result of an unprecedented economic and foreclosure crisis compounded by years of population out-migration and devaluation of property values. In addition to properties being foreclosed upon by mortgage companies, both homeowners and lenders in the most distressed neighborhoods were, with alarming frequency, making the decision to walk away from their properties. This resulted in the vacancy of tens of thousands of homes and commercial buildings throughout the county, and now the tax delinquency of more than 30,000 parcels County-wide.

Traditionally established tools for tax collection and alternative means of collection such as tax lien sales have proven their effectiveness in properly functioning markets. However, in the most distressed areas of the County, grave concerns exist that some of these methods could result in further neighborhood destabilization and further erosion of the tax base.

The magnitude of this issue requires a reassessment of the traditional tools used to manage property tax collection. While this study does not attempt to provide a comprehensive analysis of all forms of property tax collection, it highlights an urgent need on the part of the County administration to fully analyze the methods currently being used to collect property taxes balanced against the risk of further destabilizing neighborhoods.

Our analysis focuses on a general overview of the current processes being used for property tax collection with a more detailed analysis of the use of tax lien sales as an alternative method of tax collection, and suggests changes to the existing tax lien sale process and alternatives to tax lien sales that should be further explored by the County.

The Study Committee recognizes that there are many differing points of view on this topic within community development circles, and acknowledges that given the current fiscal environment that has resulted in inner-ring suburbs such as East Cleveland and Maple Heights finding themselves in Fiscal Emergency, and other cities in the unfortunate position of making staff cuts and reducing city services, the need for short term revenue is critical, but it must be weighed by a long-term approach to neighborhood stabilization and preservation of the tax base. There are no easy answers, but we strongly urge the County administration to tackle this subject in the immediate term and to conduct the exhaustive research needed to determine

the best course of action to avoid further destabilization. The suggestions and analysis presented in this report are meant as a starting point for further analysis.

Since 1998, the County has engaged in the practice of selling delinquent tax lien certificates to third-party, for-profit enterprises in order to obtain large infusions of cash. Since 2011, staffing cuts in the Fiscal Office have reduced the County's internal capacity to engage in more traditional means of delinquent tax collection, potentially increasing reliance upon tax lien certificate sales.

While such tax lien sales help the County recover delinquent taxes rapidly in the short term, serious concerns exist as to the viability of this practice over the long term. Critics contend that tax lien sales lead to increased rates of foreclosure, property vacancy, and blight, permanently undermining the County's property tax base. Criticisms focus on the inclusion of inappropriate properties in tax lien sales and poor selection and oversight of tax lien buyers, who neglect property maintenance after taking title and charge excessive fees to homeowners trying to pay off the debts. The selling of tax liens is also criticized because it transfers the profitable function of collecting interest and fees on delinquent tax bills from County governments to third-party entities. When tax lien sales are not carefully designed and managed, there is the risk that they may impede transparency and political accountability, trigger consumer protection concerns, further destabilize already distressed housing markets, and decrease County tax revenue over time.

Given what is at stake, it is essential for the County to understand the current impacts of tax lien sales throughout the County, assess the feasibility of utilizing alternatives to tax lien sales, and ensure that the County's internal capacity to collect taxes and process tax foreclosures remains robust.

The Vacant and Abandoned Property Action Council (VAPAC)<sup>1</sup> began working with County Fiscal Office staff when tax lien sales were reestablished in 2011. Based on this collaborative work, positive changes were made to the tax lien sales contract to minimize adverse neighborhood outcomes. Recognizing that more needed to be done to understand the impacts of tax lien sales and to address the concerns of various stakeholders, VAPAC embarked on this study of tax lien sales in Cuyahoga County in the summer of 2014 with the continued cooperation of Fiscal Office staff. The attached report contains our analysis, findings, and recommendations. A summary of our key findings and recommendations follows below.

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<sup>1</sup> VAPAC is a coalition of people and institutions in Cuyahoga County dedicated to sharing information and collaboratively developing solutions to the challenges created by foreclosure and vacant property. VAPAC members include community development practitioners, public officials, and housing advocates.

## Key Findings

- Cuyahoga County needs property tax revenue for schools, police, fire, social services, and other core county and municipal operations.
- Cuyahoga County has significantly reduced its internal capacity to collect property taxes in recent years, resulting in a dependence on tax lien sales for cash flow.
- The current buyer of Cuyahoga County tax liens, Woods Cove, LLC, is not meeting its stated objectives. Redemption rates county-wide are significantly below the rates Woods Cove projected for investing in Cuyahoga County.
- Woods Cove's redemption rates are lowest in the core urban neighborhoods and inner ring suburbs, validating the concerns expressed in national literature that tax lien sales as a business model are not well suited for weaker housing markets.
- Among properties on which tax lien certificates are sold, the percentage of vacant properties increases as the certificates age. The County should be concerned about the disposition of those properties because vacancies decrease property values, shrinking the County's tax base.
- Among properties on which tax lien certificates are sold, foreclosure and vacancy outcomes disproportionately affect communities with high concentrations of people of color and high poverty rates.
- Woods Cove has not demonstrated the commitment, capacity, and systems to deal with unredeemed properties that become abandoned in the more distressed communities in Cuyahoga County.
- In September 2013, the County entered into a new contract with Woods Cove without conducting due diligence to investigate Woods Cove's commitment, capacity, and systems for property management operations in distressed housing markets.
- An alternative to tax lien sales being practiced in Michigan could potentially satisfy the County's need for property tax revenue while avoiding the negative outcomes associated with tax lien sales in weaker housing markets.

## Summary of Recommendations

- A. Increase Internal Tax Collection Capacity (full detailed recommendations available on page 65)
- The County Council and County Executive should move quickly to conduct a thorough analysis of the County's current tax collection processes to identify deficiencies and opportunities for increasing effective outcomes.
  - The County should evaluate what staffing and/or other resources would be needed to increase collection efforts.

- The County should create a communications plan to engage taxpayers and municipal partners to become allies in the process of tax collection.
- B. Continue to Improve Tax Lien Sale Practices (full detailed recommendations available on page 69)
- The County should establish a committee with authority to review Woods Cove’s operations and make recommendations for improvement.
  - The County should hold Woods Cove accountable for any noncompliance with respect to the current tax lien sale purchase contract.
  - Before the County conducts any future tax lien sales, the County should implement changes in the tax lien sale contract and procedures in order to better protect distressed communities and vulnerable taxpayers.
  - Any future offering of tax liens should exclude from the sale those properties whose market value is \$50,000 or less.
- C. Improve Property Management and Disposal Practices (full detailed recommendations available on page 72)
- The County should monitor and hold Woods Cove and any other tax lien purchaser responsible for the condition of properties acquired through foreclosure, especially in distressed neighborhoods, by utilizing a mandatory bond process and improving communication with municipalities.
  - Before the County conducts any future tax lien sale, the County should conduct a due diligence investigation of the potential purchasers to determine their commitment, capacity, and systems for property management in distressed housing markets.
- D. Explore the Feasibility of Tax Lien Sale Alternatives (full detailed recommendations available on page 76)
- The County should establish a committee with authority and resources to study the feasibility of implementing tax lien sale alternatives, such as the alternative being used in Michigan, and other alternatives such as the use of third-party collection agencies to increase delinquent tax collection.

## Introduction

In an effort to increase collection of delinquent property taxes and thereby generate revenue, many states, including Ohio, allow counties to sell the indebtedness to a third party as property tax liens. Tax liens are an attractive tool for governments because the tax lien certificate purchaser pays the full amount of the tax delinquency up front, providing immediate cash for vital services. The lien is generally comprised of the delinquent tax balance plus any late fees, costs associated with the sale, and interest that begins to accrue at sale. The liens are generally sold to private investors who assume the County's lien position and can file a foreclosure action to collect the debt owed, in the event that the delinquent balance is not paid or "redeemed". In Cuyahoga County since 2011, tax lien sales have yielded instant cash infusions to the County totaling over \$50 million.

At the national level, tax certificates have been a popular investment mechanism, and a number of banks and hedge funds have invested large amounts of capital in them. Bank of America, Broad Capital, RMPAM, and Fortress Investments are among the largest participants. The maximum rate of return on a tax lien can be far higher than other investments. In Ohio, the maximum interest rate allowed by law is 18%.<sup>2</sup> The right to carry out tax lien sales is embodied in Ohio Revised Code ("R.C.") Chapters 5721 and 323.

Though seen as a useful collection and investment tool by some, in recent years the practice of selling tax liens has also been questioned. Numerous studies, investigative reports and scholarly articles have raised alarm about the negative impact of tax lien sales on senior citizens, people of color, and other vulnerable populations, and on communities already distressed from the mortgage foreclosure crisis.<sup>3</sup> Critics say public entities that sell off tax debt are being

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<sup>2</sup> R.C. 5721.30(G). 18% is the statutory maximum simple interest rate for tax certificates sold or transferred in a negotiated sale.

<sup>3</sup> Charles D. Rittenhouse, "The True Cost of Not Paying Your Property Taxes In Ohio," Univ. of Dayton Law Review, Vol. 36:2 (2011); Michelle Z. Marchiony, "Making Debt Pay: Examining The Use Of Property Tax Delinquency As A Revenue Source," Emory Univ. Law Journal, Vol. 62:217 (2012), available at <http://law.emory.edu/elj/content/volume-62/issue-1/comments/making-debt-pay.html>; National Consumer Law Center, "The Other Foreclosure Crisis—Property Tax Lien Sales" (July 2012); Center For Community Progress, "Analysis of Bulk Tax Lien Sale—City of Rochester" (Feb. 2013); Michael Sallah, Debbie Cenziper, Steven Rich, "Homes for the Taking—Liens, Losses and Profiteers," Washington Post (Sept. 8, 2013), available at <http://www.washingtonpost.com/sf/investigative/collection/homes-for-the-taking/>; Michael Sallah, Debbie Cenziper, "Debt-Collecting Machine," Washington Post (Dec. 8, 2013), available at <http://www.washingtonpost.com/sf/investigative/2013/12/08/debt-collecting-machine/>; "Predators Target Homes of Older Americans," AARP Bulletin (April 2014).

shortsighted, opting for cash flow in the short run, but ignoring both the long term consequences and the reasons tax delinquencies have escalated in their jurisdiction. Questions have been raised about the viability of tax lien sales as a tax collection strategy in weaker housing markets<sup>4</sup>, given the risk that tax lien sales might erode a County's property tax base over time.

## Study Goals

This study is the result of the community's interest in examining the practice of tax lien sales in Cuyahoga County, Ohio, initiated with the following goals:

- To provide an overview of the current tax collection procedure, capacity, and tax lien sale process as it operates currently in Cuyahoga County.
- To analyze the 2011 to 2013 tax lien sales to Woods Cove LLC in order to assess their financial and community impacts.
- To identify further improvements that could be made to the tax lien sale process and contract to mitigate potentially negative impacts.
- To research the applicability and potential benefits of alternative approaches to tax lien sales as a means of tax collection.

## About VAPAC

VAPAC is a coalition of people and institutions in Cuyahoga County, Ohio dedicated to sharing information and collaboratively developing solutions to the challenges created by foreclosure and vacant property. VAPAC is a private gathering of people in key public and public interest positions – senior executives, department heads and policy makers – that helps maximize access to information for policy makers and administrators of programs. VAPAC minimizes duplication of efforts by helping to coordinate the resources and influence of the various institutions and governmental entities confronting vacant property and foreclosure issues.

VAPAC was created in July 2005 in response to a recommendation in “Cleveland at the Crossroads” a report on vacant property commissioned by Cleveland Neighborhood Progress

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<sup>4</sup> Throughout this study the term “weak housing market” refers to geographic areas - at the county, municipal or neighborhood level - that have lower home sale prices in comparison to other similar areas in the region. Causes of such home sale disparity could include, but not be limited to, high rates of foreclosure, abandonment and neighborhood blight and crime. One significant consequence of low home sale prices is that the options for redevelopment and renovation of vacant property are more limited than in strong housing markets, i.e. the cost to bring a vacant property into compliance with housing codes may not be recovered by a low sale price upon completion. For a more detailed discussion of market impact on housing redevelopment see Ford et al, “The Role of Investors in The One-To-Three Family REO Market: The Case of Cleveland,” Harvard University (December 2013).

(CNP) and conducted by the National Vacant Properties Campaign (now the Center For Community Progress). VAPAC has met monthly since its inception and is chaired by Frank Ford, Senior Policy Advisor at the Thriving Communities Institute. VAPAC is generally regarded as the first county-wide collaborative response to foreclosure and property abandonment in the United States.<sup>5</sup>

## About the Study Committee

The VAPAC Tax Lien Study Committee is comprised of the VAPAC Chair, four Cuyahoga County staff from the Prosecutor's Office and the Treasurer's Office, and 12 community members, most of whom volunteered their time. The members are:

- Ben Faller, Esq., Home Repair Resource Center
- Justin Fleming, Esq., Cleveland Neighborhood Progress
- Frank Ford, Esq., Thriving Communities Institute, Western Reserve Land Conservancy (VAPAC Chair)
- Dr. David Hunter, Cleveland NAACP
- Toni Jones, City of Maple Heights and Bellaire Puritas Development Corporation
- Colleen Majeski, Esq., Cuyahoga County Prosecutor's Office
- Sally Martin, City of South Euclid
- Kristy Neff, Cuyahoga County Treasurer's Office
- Andrea Price, Esq., The Legal Aid Society of Cleveland
- Julie Robie, Esq., The Legal Aid Society of Cleveland
- Michael Schramm, Center for Urban Poverty, Case Western Reserve University
- William Sheehan III, Interim Cuyahoga County Treasurer
- Michael Sweeney, Cuyahoga County Treasurer's Office
- April Urban, Center for Urban Poverty, Case Western Reserve University
- Jay Westbrook, Thriving Communities Institute, Western Reserve Land Conservancy
- Sheila Wright, Esq., Cleveland NAACP

## Methodology

To examine current collection of delinquent property taxes and determine the impact of tax lien sales on Cuyahoga County, the Study Committee examined three Cuyahoga County tax lien "base sales" to purchaser Woods Cove, LLC, that took place on November 10, 2011, May 31, 2012, and September 26, 2013, and the subsequent lien certificate purchases associated with

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<sup>5</sup> Joseph Shilling, "Cleveland and Cuyahoga County—A Resilient Region's Responses to Reclaiming Vacant Properties," Virginia Tech (May 2014).

those base sales, which took place on August 31, 2012 and July 31, 2013. Data concerning the certificates and their status was obtained directly from the Cuyahoga County Treasurer and from Woods Cove, LLC. Additional relevant information was obtained from the NEO CANDO and NST data systems maintained by Case Western Reserve University.<sup>6</sup> Most of the data is current as of July 28, 2014, but data regarding property vacancies and property conditions is current as of February 9, 2015. Members of the research team augmented the analysis by speaking with members of past and current County administrations, local community organizations, City of Cleveland officials, suburban officials, and Woods Cove representatives and made in-person site visits to assess the condition of properties in distressed neighborhoods. Finally, the Study Committee reviewed law review articles and other literature that provided additional perspectives on tax lien certificate sales.

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<sup>6</sup> For more information on the NEO CANDO and NST data systems, see “Briefly Stated: The Neighborhood Stabilization Team Web Application,” available at <http://povertycenter.case.edu/foreclosureresearch/>.

## Property Tax Delinquency and Collection Methods

### A. Property Tax Delinquency in Cuyahoga County

As of February 22, 2015, \$578 million in delinquent property taxes was owed to Cuyahoga County on 42,482 parcels. As indicated in Figure 1 below, residential parcels make up the largest share (87.22%) of the delinquent parcels but a disproportionately smaller share (37.13%) of the total delinquency. Meanwhile commercial parcels represent the largest volume of delinquent taxes owed (60%) but constitute only 9.41 % of the delinquent parcels<sup>7</sup>. Commercial and industrial parcels combined represent 62.61% of all delinquent taxes owed and only 10.82% of the delinquent parcels.

<b>Cuyahoga County Delinquency as of 2/22/15</b>				
<b>Class</b>	<b>Dollars</b>	<b>%</b>	<b>Parcels</b>	<b>%</b>
All Property Classes	578,060,601.38	100.00%	42,482	100.00%
Residential	214,660,088.19	37.13%	37,434	88.12%
Industrial	15,061,394.60	2.61%	597	1.41%
Commercial	346,856,260.36	60.00%	3,999	9.41%
Other	1,482,858.23	0.26%	452	1.06%
All Land Use Codes Total Net Delinquent Amount >\$1				

Figure 1: Total property tax delinquency. Source: Cuyahoga County Treasurer data provided to NEO CANDO at Case Western Reserve University.

As noted in the table below, delinquent tax owed to the County on residential class property has grown significantly in recent years.

<b>Residential Class Tax Delinquency 2009-2014</b>					
<b>Tax Year</b>	<b>Date received from County</b>	<b>Total Parcels Delinquent</b>	<b>Amount Delinquent</b>	<b>Average Delinquency</b>	<b>Median Delinquency</b>
2009	9-Nov-10	27,717	\$89,912,521	\$3,064	\$1,727
2010	15-Sep-11	31,528	\$122,711,085	\$3,892	\$2,389
2011	6-Dec-12	28,736	\$123,328,196	\$4,292	\$2,388
2012	19-Nov-13	29,559	\$142,908,969	\$4,835	\$2,688
2013	21-Sep-14	30,737	\$166,263,520	\$5,409	\$2,715
2014	22-Feb-15	37,434	\$214,660,088	\$5,734	\$2,633
Residential Class: all land use codes beginning with "5" Total net delinquent balance >\$1					

Figure 2: Residential property tax delinquency. Source: Cuyahoga County Treasurer data provided to NEO CANDO at Case Western Reserve University as of dates indicated above.

<sup>7</sup> The \$346,856,260.36 in commercial tax delinquency includes approximately \$136 Million owed by the Cleveland Clinic. For a number of years the Clinic has been challenging its taxable status. An appeal pending with the Ohio Board of Tax Appeals will eventually determine whether the Clinic owes some, all or a portion of this delinquency.

From 2009 to 2014, residential tax delinquency grew from \$89.9 million to \$214.6 million. The average delinquency per parcel has increased by 88.7%, from \$3,064 to \$5,734.

The data above do not reflect delinquent taxes that have been sold to a tax lien purchaser, because once the debt is transferred to the tax lien purchaser, it is removed from the County's books. Although it would appear that selling property tax debt lowers delinquency, since the debt to the County is paid, the debt is not actually eliminated. As will be noted later in this report, the pay-off rate ("redemption rate") experienced by the County's current tax lien purchaser, Woods Cove, LLC, is low – only 38% of properties with Woods Cove liens were redeemed by taxpayers as of July 28, 2014. Thus nearly two-thirds of the tax debt the County sold to Woods Cove still exists, but is now held by a private company. Not only does the debt still exist, but so do all of the associated consequences for taxpayers and their communities.

## B. Collection Practices Currently Utilized by the County

Cuyahoga County currently uses three different methods to collect delinquent property taxes: (1) the County Treasurer's Office engages in direct customer service with taxpayers, (2) the County Prosecutor's Office files judicial tax foreclosure actions in the County Common Pleas Court,<sup>8</sup> and (3) the County sells tax lien certificates to a single third-party purchaser. This section describes and provides data related to each of these three methods.

### 1. Direct Customer Service by County Treasurer's Office

Customer service by the County Treasurer's Office currently consists of sending out letters and billing statements; handling phone inquiries from taxpayers; offering the EasyPay Program, which allows taxpayers who are already current to pay in installments; and arranging payment plans with delinquent taxpayers to eliminate delinquency. The Ohio Revised Code requires that delinquent taxpayers be given at least one opportunity<sup>9</sup> to bring their taxes current through an installment payment plan of at least two years and no more than five years.<sup>10</sup> The Revised Code gives the County Treasurer discretion to offer additional payment plans,<sup>11</sup> and in

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<sup>8</sup> As described later in this report, the Prosecutor's Office also files administrative foreclosure actions in the County Board of Revision (BOR). While some of these BOR foreclosures may lead to the collection of delinquent taxes, most result in transfer of properties to County and City Land Banks, which does not generate revenue for the County in the short-term but is essential for stabilizing and strengthening the County's property tax base over the long-term.

<sup>9</sup> R.C. 323.31(A)(1).

<sup>10</sup> R.C. 323.31(A)(4). The two-year minimum is mandatory if the homeowner requests it. The statute appears to allow a shorter period if the homeowner does not request the two-year minimum.

Cuyahoga County, it has been the practice of the Treasurer’s Office to offer up to three payment plans on residential owner-occupied properties over a five-year period.<sup>12</sup>

While taxpayers who are not delinquent receive two billing statements, delinquent taxpayers receive a third billing statement. If the taxes remain unpaid, a notice of a pending tax lien sale or tax foreclosure may be sent. Due to severe staffing cuts over the past few years, the Treasurer’s Office no longer has the resources to engage in additional proactive outreach to minimize delinquency.

Taxpayers calling the County Treasury are currently met with an automated system that asks the caller to select from options, including bill payment, then places them in a “hold” queue. A call by a member of this study’s research team on December 4, 2014<sup>13</sup> was placed on hold following an automated message “...due to high call volume”. After a 10-minute hold, the call was disconnected. A second call resulted in another 10-minute hold and was then answered by a customer service representative who explained that “our system will drop you if we get too many calls.” This call was placed two to three weeks before the expected highest call volume, which would follow the mailing of the six-month tax bills.

Greater resources for proactive customer service existed in the Treasurer’s Office several years ago. Prior to 2011, the Treasurer’s Office was staffed by 83 employees. That number was dramatically reduced between 2011 and 2014, to 37 employees, as shown in Figure 3. During the same period, the County reinstated the sale of tax lien certificates, after suspending those sales in 2010.

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<sup>11</sup> R.C. 323.31(A)(1). Taxpayers may seek additional payment plans because a payment plan becomes void when the taxpayer misses even one installment payment or fails to pay current taxes due. R.C. 323.31(A)(6).

<sup>12</sup> In addition, for any taxpayer who has never defaulted on a payment plan prior to foreclosure, the Revised Code allows one installment payment plan after a foreclosure action has been filed, but before any sheriff’s sale has been confirmed. The payment plan can extend over five years and must cover all of the unpaid taxes, assessments, penalties, interest, charges, and court costs, and the property must be in compliance with all applicable zoning regulations, land use restrictions, and building, health, and safety codes. The execution of such a payment plan does not stop the foreclosure action from proceeding to judgment, but the Common Pleas Court or Board of Revision retains jurisdiction over the property until the total amount is paid. R.C. 5721.25.

<sup>13</sup> Call made by Frank Ford, Senior Policy Advisor, Thriving Communities Institute, at 11:30 a.m. on Dec. 4, 2014.

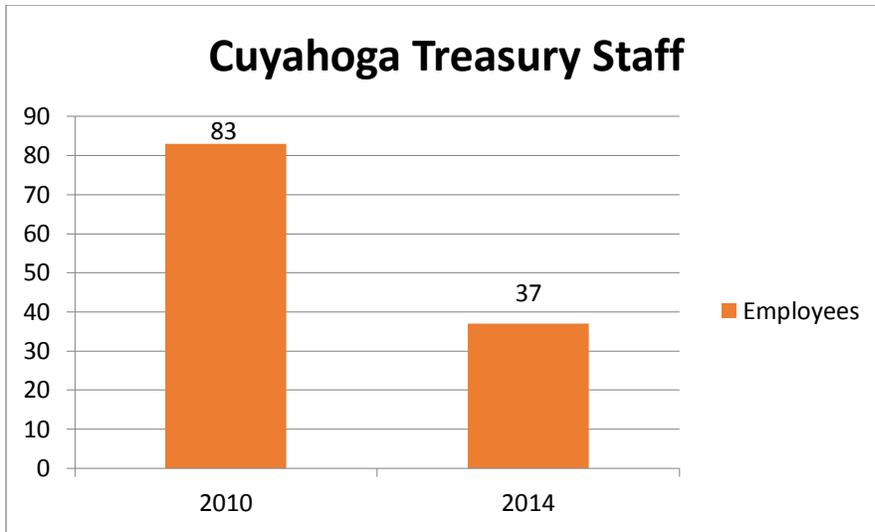


Figure 3: Cuyahoga County Treasury Staff, 2010 and 2014. Source: Cuyahoga County Treasurer's Office.

Prior to the staff cuts in 2011, the Treasurer's Office had approximately 16 individuals who were responsible for outreach and communication with taxpayers. In addition, the Treasurer's Office had six staff who initiated phone calls to every taxpayer whose property had been referred to the Prosecutor and put into the judicial tax foreclosure queue. These six employees were directly supervised by a seasoned tax collection veteran. They assisted the Prosecutor's Office by obtaining taxpayer address information for service purposes and occupancy information for potential foreclosure filings. An equally important job function was to obtain information from taxpayers about their current financial status and ability to pay their accumulated delinquency. Payment plans were discussed at this juncture, offering delinquent taxpayers an opportunity to pay current and delinquent taxes on a payment plan of up to five years. The Treasurer's Office used various information services to contact family members of the delinquent taxpayer, neighbors, and others to identify property vacancies, contact and billing information, and opportunities for payment to increase collection. This six-person unit collected and stored the information obtained on these issues and was an excellent resource for community outreach by the Treasurer. This constituted a level of communication and outreach to delinquent taxpayers that does not exist today. This six-person unit was eliminated under the 2011-2014 County administration.<sup>14</sup>

As a result of the elimination of more than half of its staff, the Treasurer's Office does not currently have the capacity to provide the same level of customer service that was provided by the prior administration before 2011. The Treasurer's Office reports that there were 4,114

<sup>14</sup> In fairness to Interim Treasurer William Sheehan III, it must be noted that he was not responsible for the severe staff cuts; he inherited this situation when he assumed his position in the final months of the 2011-2014 County administration.

payment plans in effect in 2014; that represents only 14% of the approximately 30,000 parcels with residential delinquency in 2014. Although a direct causal link between staff reduction and tax collection cannot be proven, common sense would suggest that such drastic cuts are questionable at a time when residential tax delinquency is climbing.

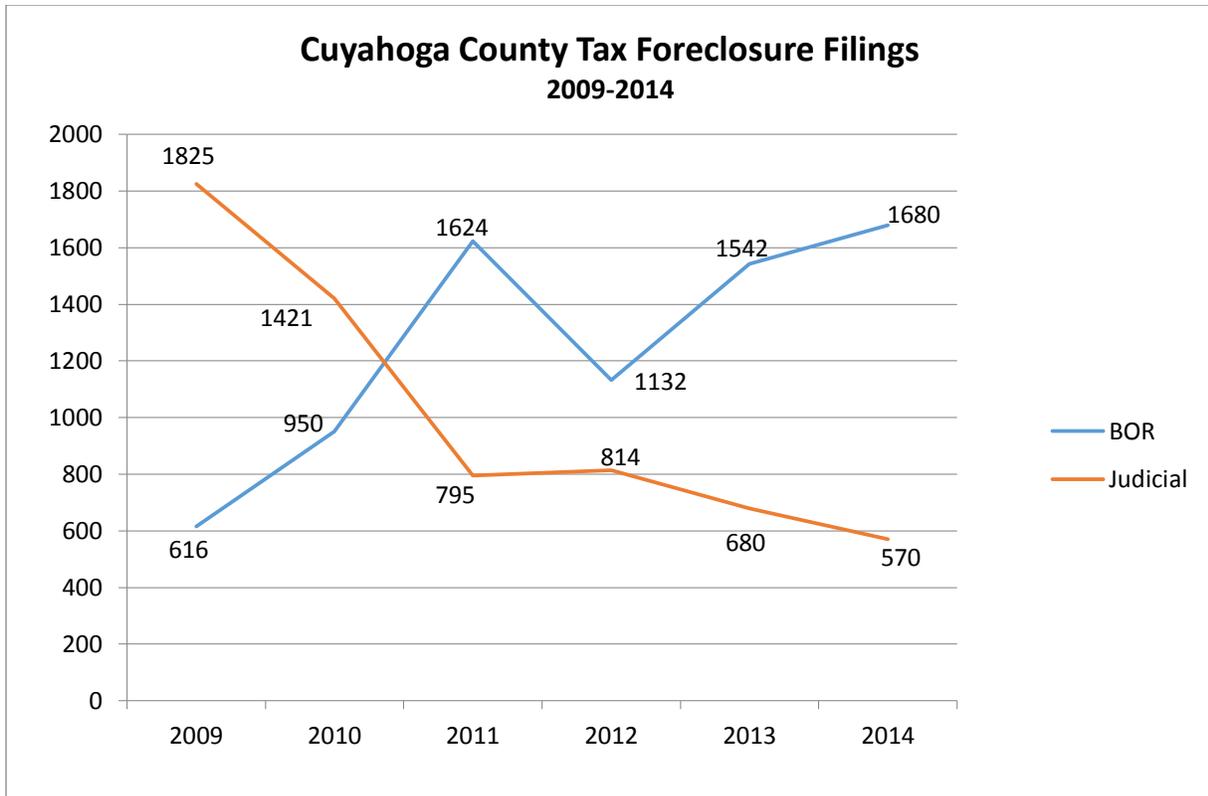
## 2. Tax Foreclosure By County Prosecutor's Office

Delinquent taxes automatically become a first-tier lien against the property, with the property becoming the collateral for the delinquent balance. If the taxes remain unpaid, the County may ultimately initiate a foreclosure action. The County Prosecutor's Office has authority to file two types of tax foreclosure cases: "judicial" tax foreclosures filed in the County Common Pleas Court and "administrative" tax foreclosures filed in the County Board of Revision ("BOR").

"Judicial" tax foreclosures are filed when properties are still occupied by homeowners or are otherwise deemed unsuitable for a Board of Revision foreclosure process. If the delinquency is certified by the Treasurer's Office, and then publically advertised as delinquent for a year, it becomes eligible for a judicial tax foreclosure. The Prosecutor's Office files a foreclosure action on the Treasurer's behalf, and if a judgment is obtained, the property is brought to sheriff's sale. The proceeds of that sale pay for the cost of litigation and then recoup for the Treasurer the delinquency owed.

In contrast, "BOR" tax foreclosures are filed when properties are vacant or abandoned. The BOR process is designed to clear land titles and dispose of vacant properties efficiently, often by directing those properties to the Cuyahoga Land Bank.

Overall, the number of County Prosecutor foreclosure filings has remained consistent for the last six years, with an average of around 2,200 cases filed per year. However, the allocation of those cases between judicial filings and BOR filings has shifted, as shown in Figure 4. At the request of the Treasurer, and with the support of housing advocates and agencies interested in directing properties to the County Land Bank, the Prosecutor's Office has significantly increased the number of BOR foreclosure filings, which is a positive change in terms of management of vacant properties. Unfortunately, this has also led to a result not anticipated by housing advocates, which is a significant reduction in judicial foreclosure filings. Overall, BOR cases have increased to about 70-75% of all tax foreclosure cases filed by the Prosecutor's Office, while judicial foreclosure cases have decreased to about 25-30% of all cases.



Year	2009	2010	2011	2012	2013	2014
<b>BOR</b>	616	950	1,624	1,132	1,542	1,680
<b>Judicial</b>	1,825	1,421	795	814	680	570
<b>Total</b>	2,441	2,371	2,419	1,946	2,222	2,250

Figure 4: Cuyahoga County Tax Foreclosure Filings, 2009-2014. Source: Cuyahoga County Prosecutor.

The loss of judicial tax foreclosure cases affects the County’s delinquent tax collection. Because judicial foreclosure cases are likely to be filed against properties that have more inherent value than the more distressed properties deemed suitable for the expedited Board of Revision process, those cases may proceed to sheriff’s sale and become the subject of competitive bidding. If the property sells for a high enough price, the County recovers the delinquent taxes and its court costs. The County also recoups the delinquent taxes if the original homeowner “redeems” the property before the sheriff’s sale is confirmed by paying the full amount of unpaid taxes, assessments, penalties, interest, charges, and court costs.<sup>15</sup> In contrast, BOR foreclosures are aimed at lower-value, vacant property. During the BOR process, financial analysis and other means are used to direct these vacant properties to County or City Land Banks without sale. The BOR process thus provides an extremely valuable, well-documented, neighborhood stabilization benefit, and it is essential that the County’s ability to process BOR tax foreclosures remains robust and even increases to keep up with the volume of vacant tax

<sup>15</sup> R.C. 5721.25.

delinquent properties. However, while BOR foreclosures efficiently dispose of vacant properties in a way that may be beneficial to the community, BOR foreclosures do not directly recoup lost tax revenue.

As described in Figure 4, during roughly the same time period that Treasury staff was cut, the County scaled back its filing of judicial tax foreclosures from 1,825 in 2009 to 570 in 2014. In other words, the County appears to have simultaneously limited both of its two internal means of property tax collection: direct customer service and judicial tax foreclosures.

While judicial tax foreclosures can recoup tax revenue, it must be pointed out that they can also result in adverse neighborhood outcomes with respect to vacancy and unwanted real estate speculation. Unwanted properties can end up in the State of Ohio Forfeited Lands inventory, and then be exposed to a public auction process with low minimum bids that invite speculation. However, many of these possible adverse consequences can be minimized if the County were to work with municipal land banks and the Cuyahoga Land Bank to insure that distressed and vacant property is diverted to land banks rather than being sold at auction. In spite of the possibilities for adverse outcomes, judicial tax foreclosures can be an effective tool for tax collection as well as neighborhood stabilization, and as such, remain an important tool in the tax collection repertoire for properties deemed unsuitable for Board of Revision tax foreclosure.

Regardless of the process used, the County's current capacity to carry out tax foreclosures (currently around 2,200 units per year) is inadequate to address the more than 30,000 tax delinquent parcels in the County within any reasonable time frame. It is essential to examine the capacity of the Prosecutor's Office and determine, based on potential risks and neighborhood stabilization benefits, whether additional resources should be directed to increase capacity for both judicial foreclosure and BOR foreclosure.

A 2014 analysis conducted by the County Prosecutor's Office acknowledges that existing resources are inadequate to tackle the number of countywide delinquencies.<sup>16</sup>

### 3. Sale of Tax Liens to Third Parties

#### *a. History of Tax Lien Sales in Cuyahoga County*

On April 8, 1997, Representative Richard Hodges introduced House Bill 371 to the House of Representatives, which enabled the Treasurers of 12 counties with populations of at least

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<sup>16</sup> Information from County Prosecutor's Office.

200,000 to collect delinquent property taxes by selling tax lien certificates to private investors.<sup>17</sup> Tax lien certificate sales are currently governed by Ohio Revised Code Chapter 5721.

Cuyahoga County has been using tax lien sales as a tool for collecting delinquent taxes since 1998. The sales were discontinued for residential parcels in 2010 by then County Treasurer Jim Rokakis. The practice was reinstated in fall 2011, when a new County government came into existence.

When the reinstatement was announced, the Vacant and Abandoned Property Action Council (VAPAC) promptly sent a letter<sup>18</sup> to County Executive Ed FitzGerald, raising a number of concerns, including concerns that tax lien sales may create homeowner hardship; promote speculation, vacancy, and abandonment; undermine community development and place-making strategies; and undermine land banking.

In response to the issues raised by VAPAC in 2011, County Executive FitzGerald instructed County Treasury staff to work with VAPAC to improve safeguards that would minimize harmful impacts to communities. Over the next several years, VAPAC worked with County staff to analyze the tax lien sale process and the sale contract between the County and the purchaser, with the goal of making tax lien sales, if they are to occur, more supportive of strengthening neighborhoods. To facilitate data-based decision making, a database was established at Cleveland Neighborhood Progress, Inc. (CNP) that uses data from NEO CANDO at Case Western Reserve University (CWRU) and data provided by the Treasurer's Office about the sales and certificates. The database has allowed VAPAC and County staff to monitor properties included in the tax lien certificate sales, in order to better inform future sale practices. This system has produced bi-annual reports to the County administration over a three-year period.

In September 2013, a scathing Washington Post investigative report<sup>19</sup> was released, detailing lax tax lien sale practices in Washington, D.C., and highly questionable actions by Aeon Financial, the buyer of tax lien sales there. Aeon Financial was also a buyer of multiple Cuyahoga County tax liens prior to the revised process that started in 2011. The Washington Post released a follow-up report<sup>20</sup> on December 8, 2013, that included a focus on Cuyahoga County. These reports prompted a number of additional calls for reform. On February 26,

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<sup>17</sup> House Activity (Apr - June 1997) 66 Ohio Rep (Gongwer News Service) No. 82 at 6 (Apr 30, 1997).

<sup>18</sup> Letter from VAPAC to Cuyahoga County Executive (Aug. 31, 2011).

<sup>19</sup> Michael Sallah, Debbie Cenziper, Steven Rich, "Homes for the Taking—Liens, Losses and Profiteers," Washington Post (Sept. 8, 2013), available at <http://www.washingtonpost.com/sf/investigative/collection/homes-for-the-taking/>.

<sup>20</sup> Michael Sallah, Debbie Cenziper, "Debt-Collecting Machine," Washington Post (Dec. 8, 2013), available at <http://www.washingtonpost.com/sf/investigative/2013/12/08/debt-collecting-machine/>.

2014, State Senator Shirley Smith called for a bill in the Ohio Senate to prohibit the sale of tax liens.

On March 3, 2014, the Legal Defense Fund (“LDF”) of the NAACP in Washington, D.C., called upon Cuyahoga County to implement a moratorium on tax lien sales and conduct research to assess the impact of tax lien sales on communities of color. This was followed on April 3, 2014, by a letter from the Cleveland Chapter of the NAACP that joined the call for a moratorium. On June 9, 2014, County Executive FitzGerald convened a meeting with representatives from the local NAACP, the LDF, and VAPAC. While Executive FitzGerald stated that the County would not suspend tax lien sales, he expressed his full support to the NAACP and VAPAC for County staff to work collaboratively with these groups to conduct research on the impact of tax lien sales, and to explore alternatives to tax lien sales that may be in operation elsewhere. This study was commenced shortly thereafter.

*b. Parties Involved and Contract Governing Cuyahoga County Tax Lien Sales*

Since 1998, Cuyahoga County has entered into contracts to sell tax lien certificates to four different sets of companies. Starting in 2011, the County entered into several consecutive contracts with Woods Cove, LLC (“Woods Cove”) as the “purchaser” of the certificates and its related company Lien Servicing, LLC (“Lien Servicing”) as the “servicer” of those certificates. The most recent contract with Woods Cove and Lien Servicing was executed on September 9, 2013. In June 2014, Lien Servicing changed its name to Davenport Financial, LLC, but it continues to operate as the servicer under the contract. In addition, Woods Cove has created one or more affiliate companies to conduct aspects of its business in Cuyahoga County, including an affiliate company named Lakeside REO Ventures that purchases the real estate that Woods Cove acquires through sheriff’s sale. Lakeside REO Ventures received deeds on over 99% of foreclosed Woods Cove properties after June 1, 2014.

Throughout the remainder of this report, the September 9, 2013 contract executed between Cuyahoga County, Woods Cove, and Lien Servicing, will be referred to as the “2013 County Contract.”

*c. Exclusion of Properties from Tax Lien Sales*

Currently, the County does not sell a tax lien certificate on every property that has a tax delinquency. Certain categories of property are excluded from tax lien certificate sales.

Under the Ohio Revised Code,<sup>21</sup> none of the following parcels may be selected for a tax certificate sale:

- A parcel for which the full amount of taxes, assessments, penalties, interest and charges have been paid;
- A parcel for which a valid payment plan is in force;
- A parcel for which the owner has filed a bankruptcy petition and the parcel is the property of the bankruptcy estate.

In addition to the exclusions specified above, the County Treasurer has added the following categories:

- A parcel that is government-owned;
- A parcel that has a lien-to-value ratio greater than 40%;
- A parcel pending exempt status;
- A parcel that has a delinquent balance of less than \$1,000;
- A parcel for which a pending Board of Revision (BOR) or Ohio Board of Tax Appeals (BTA) petition has been filed and estimated payments are being made;
- A parcel that has a building value under \$20,000 (increased from \$10,000 as of September 2014);
- A parcel on which judicial foreclosure has been initiated;
- A parcel on which a homestead exemption credit is in force (in place since September 2014).
- A parcel that is a vacant lot or vacant structure, or that is condemned or scheduled for demolition whether or not determined to be vacant.

*d. Fiscal Impact of Tax Lien Sales: Data from 2011-2013 Sales*

To determine the fiscal impact of tax lien sales on the County, the Study Committee examined three Cuyahoga County tax lien “base sales” that took place on November 10, 2011, May 31, 2012, and September 26, 2013, and the subsequent lien certificate purchases associated with those base sales, which took place on August 31, 2012 and July 31, 2013. Data concerning the certificates and their status was obtained directly from the Cuyahoga County Treasurer and from the certificate purchaser, Woods Cove, LLC, and additional information derived from the NEO CANDO and NST data systems maintained by Case Western Reserve University.<sup>22</sup> Most of

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<sup>21</sup> R.C. 5721.31(A)(1).

<sup>22</sup> For more information on the NEO CANDO and NST data systems, see “Briefly Stated: The Neighborhood Stabilization Team Web Application,” available at <http://povertycenter.case.edu/foreclosureresearch/>.

the data is current as of July 28, 2014, but data regarding property vacancies and property conditions is current as of February 9, 2015.

The Study Committee examined several different types of fiscal impact. In addition to examining the most obvious category of fiscal impact, which is the amount of property tax revenue that tax certificate sales generate for the County, the Committee also looked at less obvious types of fiscal impact, such as the dollar value of residential properties affected in each municipality, the County’s loss of the profitable function of debt collection, and potential long-term effects on the County’s tax base, especially in relation to property redemption, foreclosure, and vacancy rates. The sections that follow describe the Committee’s findings and identify remaining unanswered questions.

*e. Fiscal Impact of Tax Lien Sales: Properties Affected*

The tax lien certificate sale dates and numbers of certificates sold are shown in Figure 5. Between 2011 and 2013, a total of 11,373 tax certificates were sold to Woods Cove.

Sales Date (Pool Name)	# Certificates	% of total
11/10/2011 (B2011-1)	2,312	20.33%
5/3/2012 (B2012-1)	2,013	17.70%
8/3/2012 (S2012-1)	3,358	29.53%
7/3/2013 (S2013-2)	1,370	12.05%
9/26/2013 (B2013-1)	2,320	20.40%
Total	11,373	100.01%

*Figure 5: Tax certificates included in study by sales date. Source: Cuyahoga County Treasurer and Woods Cove data.*

Because multiple tax delinquencies (e.g., from different periods time) may be associated with a single property, multiple certificates may be sold on each property. In fact, under the 2013 County Contract, once Woods Cove buys a tax lien certificate associated with a property, it is required to buy all subsequent certificates associated with that property.<sup>23</sup> As a result, the 11,373 certificates sold between 2011 and 2013 represent only 6,599 parcels<sup>24</sup>.

<sup>23</sup> 2013 County Contract, Article II, Sec. 2.4. See R.C. 5721.42.

<sup>24</sup> In some of the tables in this report the total number of parcels appears as 6,595 or 6,594. Due to slight variation in methodology these few parcels were not available in the CWRU NST / NEO CANDU data used for some of the analysis. The difference is statistically insignificant.

As shown in Figure 6, from 2011 to 2013, slightly more certificates were sold in suburban areas of Cuyahoga County than were sold in the City of Cleveland.

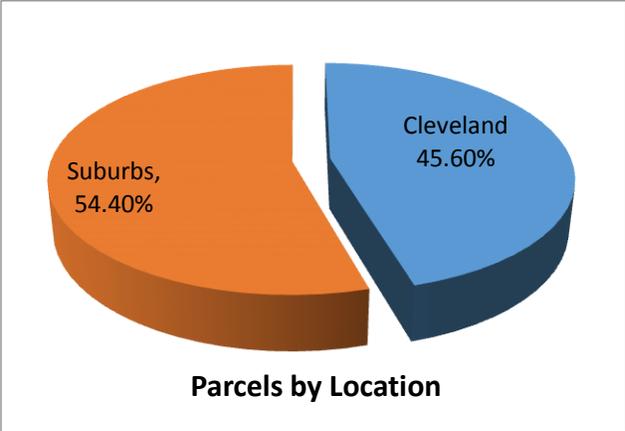


Figure 6: Tax certificate parcels by location. Source: Analysis of Cuyahoga County Treasurer, Woods Cove, and NEO CANDO data.

Most notably, while 45.6% of parcels affected are in the City of Cleveland (with a total of \$17,913,215 in tax revenue generated), 54.4% are in the suburbs with a value of \$36,376,963. Although the number of affected parcels is roughly the same in Cleveland and the suburbs, the fiscal impact of the tax lien sales in the suburbs is twice that of the City of Cleveland. Figure 7 on the next page shows the distribution of these parcels across municipalities.

## PARCELS BY CITY

City	Parcels	% of Parcels	Total Cert Amtn	% of Cert Amtn	Avrg Cert Amnt
Bay Village city	23	0.35%	\$408,420.82	0.75%	\$17,757.43
Beachwood city	25	0.38%	\$381,023.79	0.70%	\$15,240.95
Bedford city	83	1.26%	\$684,659.55	1.26%	\$8,248.91
Bedford Heights city	63	0.95%	\$636,792.40	1.17%	\$10,107.82
Bentleyville village	1	0.02%	\$11,887.75	0.02%	\$11,887.75
Berea city	29	0.44%	\$277,753.65	0.51%	\$9,577.71
Bratenahl village	9	0.14%	\$70,249.86	0.13%	\$7,805.54
Brecksville city	27	0.41%	\$341,038.24	0.63%	\$12,631.05
Broadview Heights city	24	0.36%	\$217,707.26	0.40%	\$9,071.14
Brook Park city	47	0.71%	\$350,305.02	0.65%	\$7,453.30
Brooklyn city	20	0.30%	\$142,731.72	0.26%	\$7,136.59
Brooklyn Heights village	1	0.02%	\$1,388.99	0.00%	\$1,388.99
Chagrin Falls township	8	0.12%	\$96,066.14	0.18%	\$12,008.27
Cleveland city	3,012	45.64%	\$17,913,215.75	33.00%	\$5,947.28
Cleveland Heights city	230	3.49%	\$2,680,611.75	4.94%	\$11,654.83
Cuyahoga Heights village	6	0.09%	\$75,740.56	0.14%	\$12,623.43
East Cleveland city	207	3.14%	\$1,647,458.13	3.03%	\$7,958.73
Euclid city	391	5.93%	\$3,276,945.72	6.04%	\$8,380.94
Fairview Park city	37	0.56%	\$462,180.23	0.85%	\$12,491.36
Garfield Heights	1	0.02%	\$113,617.03	0.21%	\$113,617.03
Garfield Heights city	329	4.99%	\$3,015,403.12	5.55%	\$9,165.36
Gates Mills village	11	0.17%	\$405,733.48	0.75%	\$36,884.86
Glenwillow village	2	0.03%	\$55,659.51	0.10%	\$27,829.76
Highland Heights city	13	0.20%	\$163,488.13	0.30%	\$12,576.01
Highland Hills village	9	0.14%	\$58,377.55	0.11%	\$6,486.39
Hunting Valley village	2	0.03%	\$303,478.59	0.56%	\$151,739.30
Independence city	12	0.18%	\$275,637.20	0.51%	\$22,969.77
Lakewood city	177	2.68%	\$1,767,520.95	3.26%	\$9,985.99
Linddale village	1	0.02%	\$2,672.14	0.00%	\$2,672.14
Lyndhurst city	39	0.59%	\$384,135.47	0.71%	\$9,849.63
Maple Heights city	363	5.50%	\$3,085,920.13	5.68%	\$8,501.16
Mayfield Heights city	41	0.62%	\$362,920.91	0.67%	\$8,851.73
Mayfield village	11	0.17%	\$159,564.60	0.29%	\$14,505.87
Middleburg Heights city	24	0.36%	\$180,811.69	0.33%	\$7,533.82
Moreland Hills village	1	0.02%	\$15,439.77	0.03%	\$15,439.77
Newburgh Heights village	18	0.27%	\$123,174.79	0.23%	\$6,843.04
North Olmsted city	96	1.45%	\$889,462.93	1.64%	\$9,265.24
North Randall village	8	0.12%	\$175,051.29	0.32%	\$21,881.41
North Royalton city	55	0.83%	\$568,213.82	1.05%	\$10,331.16
Oakwood village	29	0.44%	\$283,849.36	0.52%	\$9,787.91
Olmsted Falls city	25	0.38%	\$252,960.71	0.47%	\$10,118.43
Olmsted township	15	0.23%	\$190,275.94	0.35%	\$12,685.06
Orange village	13	0.20%	\$213,061.84	0.39%	\$16,389.37
Parma city	216	3.27%	\$1,797,342.94	3.31%	\$8,321.03
Parma Heights city	48	0.73%	\$720,187.62	1.33%	\$15,003.91
Pepper Pike city	10	0.15%	\$190,904.95	0.35%	\$19,090.50
Richmond Heights	1	0.02%	\$14,134.09	0.03%	\$14,134.09
Richmond Heights city	48	0.73%	\$624,524.14	1.15%	\$13,010.92
Rocky River city	39	0.59%	\$431,588.50	0.79%	\$11,066.37
Seven Hills city	26	0.39%	\$266,082.19	0.49%	\$10,233.93
Shaker Heights city	103	1.56%	\$1,554,302.45	2.86%	\$15,090.32
Solon city	52	0.79%	\$1,045,709.42	1.93%	\$20,109.80
South Euclid city	106	1.61%	\$934,291.46	1.72%	\$8,814.07
Strongsville city	65	0.98%	\$766,781.51	1.41%	\$11,796.64
University Heights city	57	0.86%	\$736,502.36	1.36%	\$12,921.09
Valley View village	4	0.06%	\$34,758.88	0.06%	\$8,689.72
Walton Hills village	8	0.12%	\$66,938.09	0.12%	\$8,367.26
Warrensville Heights city	201	3.05%	\$1,450,353.50	2.67%	\$7,215.69
Westlake city	74	1.12%	\$905,472.85	1.67%	\$12,236.12
Woodmere village	3	0.05%	\$27,695.98	0.05%	\$9,231.99
<b>Grand Total</b>	<b>6,599</b>	<b>100.00%</b>	<b>\$54,290,179.21</b>	<b>100.00%</b>	<b>\$8,227.03</b>

Figure 7: Tax certificates by municipality. Source: Analysis of Cuyahoga County Treasurer, Woods Cove, and NEO CANDO data.

Most of the certificates (93%) were on residential parcels, as shown in Figure 18. Of the residential parcels, most (82%) were single-family homes, as shown in Figure 9. Based on current County Auditor’s appraisal, 77.8% of properties that had a tax lien certificate sold were valued under \$100,000, while 22.2% were valued at over \$100,000. Properties valued under \$20,000 constituted 1.14% of the total certificates sold (i.e., 75 certificates). This is likely due to the County’s current practice of excluding properties valued under \$20,000 from tax certificate sales.

Tax certificates are slightly more likely to be on owner-occupied properties, with 57.5% of the 2011-2013 pools estimated to be owner-occupied.<sup>25</sup>

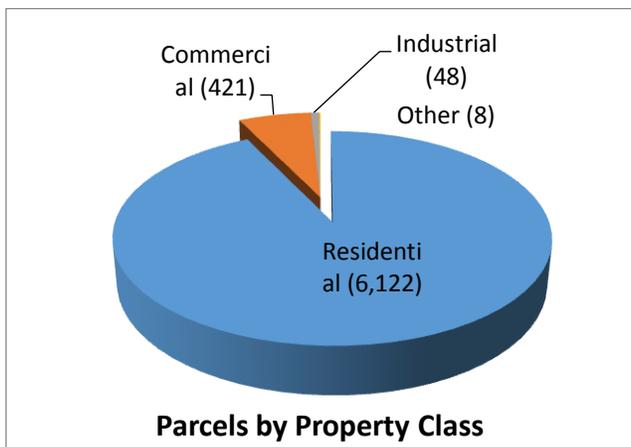


Figure 8: Tax certificate parcels by property class. Analysis of Cuyahoga County Treasurer, Woods Cove, and NEO CANDO data.

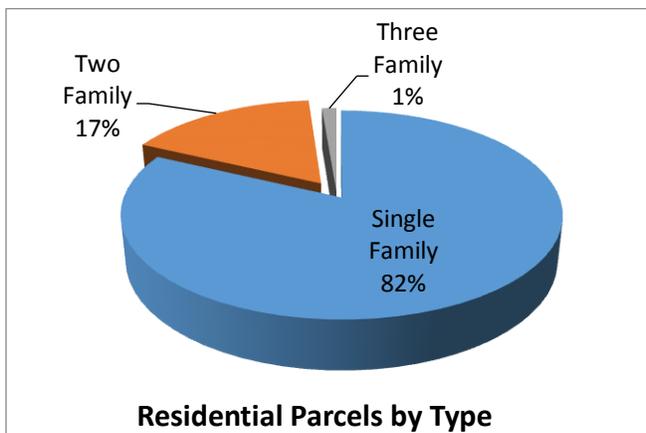


Figure 9: Residential tax certificate parcels by property type. Analysis of Cuyahoga County Treasurer, Woods Cove, and NEO CANDO data.

<sup>25</sup> There is no single data source which reliably and consistently identifies owner-occupied properties across all Cuyahoga County municipalities. We estimated owner-occupancy by determining whether the tax mailing address was different from the property address. If so, we assumed that the property was not owner-occupied.

Tax certificate amounts sold in this period ranged from \$2,083.29 to \$382,571.82<sup>26</sup>. The median certificate amount was \$6,151.64.

*f. Fiscal Impact of Tax Lien Sales: Delinquent Tax Revenue Recouped*

In terms of fiscal impact, the total value of the certificates in our study that were sold from 2011 to 2013 was \$54,290,179.21<sup>27</sup>. On average, each base tax lien pool sale brought in approximately \$18 million dollars in tax revenue. The County has also collected \$2.149 million in administrative fees from these sales.

In Cuyahoga County generally, the taxing districts that are impacted fiscally by property tax collection are as follows:

- Cuyahoga County;
- the 59 municipalities that comprise Cuyahoga County;
- the 33 school/vocational districts located in Cuyahoga County;
- the Cuyahoga County Library system and the 8 municipal library systems;
- the Cleveland Metroparks;
- the Cleveland-Cuyahoga County Port Authority; and
- Cuyahoga Community College.

In light of the County's decreased internal capacity to collect taxes in recent years, the sale of tax debt to a third party investor has been critical to maintaining revenue for the County's taxing jurisdictions, enabling them to fund their daily operations such as police, fire, code enforcement, libraries, and parks.

School and vocational districts are the largest beneficiaries of the proceeds from tax lien sales, since they receive the greatest proportion of property tax revenue. Revenue from the tax lien sales provided millions in revenue to school and vocational districts, municipalities, Cuyahoga County, libraries, Cuyahoga Community College, Cleveland Metroparks and the Cleveland-Cuyahoga Port Authority, as shown in Figure 10.

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<sup>26</sup> This high value certificate was paid off and the property was redeemed by the owner. However, as of February 22, 2015 this property still has \$600,415.23 in net delinquent taxes owed to the County.

<sup>27</sup> Our analysis is limited to three base and two subsequent sales to Woods Cove only. The County made additional sales to tax lien purchasers other than Woods Cove between 2011 and 2013 bringing the total tax liens sold to \$58,429,368.13 over this period.

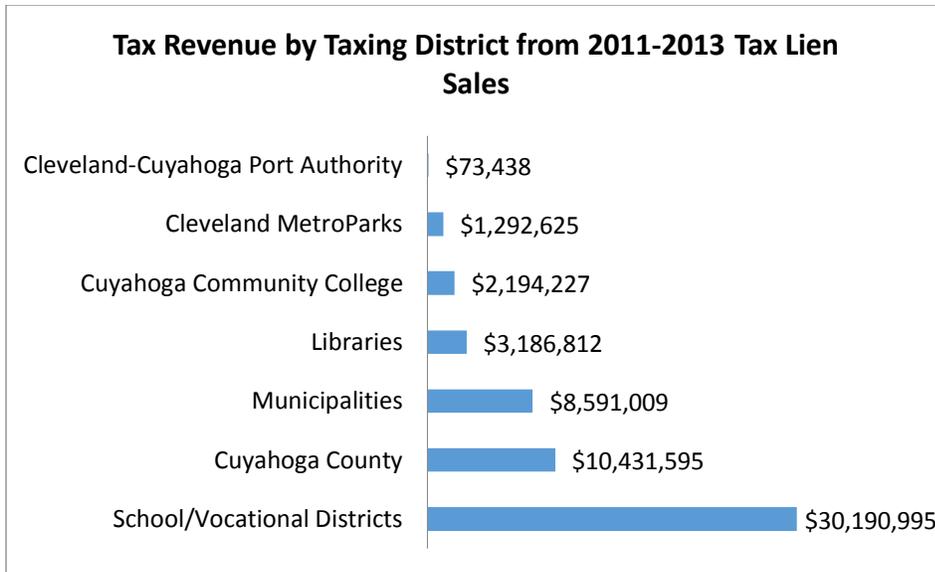


Figure 10: Tax revenue by taxing district from 2011-2013 tax lien sales. Source:

*g. Fiscal Impact of Tax Lien Sales: Transfer of Profitable Collection Activity*

The practice of selling tax lien certificates has sometimes been criticized because it transfers the profitable function of collecting interest and fees on delinquent tax bills from County government to third-party entities. Under the Ohio Revised Code, tax certificate purchasers can charge homeowners simple interest of up to 18%.<sup>28</sup> A homeowner who wishes to “redeem” or free her property of the tax liens held by the certificate purchaser is required to pay either this interest rate of 18% or a fee of 6% of the entire certificate amount, whichever is greater, in addition to other costs and fees.<sup>29</sup> Given the potentially high profits the certificate purchaser can recoup, critics question whether County government should retain ownership of delinquent tax liens rather than selling them, thereby retaining the ability to recover interest and fees.

It is beyond the scope of this study to determine exactly how much the County would profit from interest and fees if it held onto delinquent tax liens rather than selling them. With respect to this issue, the goal of this study is to recommend further consideration and examination by the County.

*h. Fiscal Impact of Tax Lien Sales: Long-Term Impact on County’s Tax Base*

The selling of tax lien certificates has also been criticized as a practice that brings short-term inflows of cash to County government but may erode the County’s property tax base over the long-term, undermining the County’s ability to collect sufficient property tax revenue in the future. Such criticisms are linked to questions of whether tax lien certificate sales exacerbate

<sup>28</sup> R.C. 5721.30(G).

<sup>29</sup> R.C. 5721.30(E)(1); R.C. 5721.30(F).

foreclosure and vacancy levels and increase neighborhood blight. One concern is that, because certificate purchasers charge higher interest rates and fees than those traditionally charged by the County on delinquent tax debts, homeowners are less able to pay off the debts and more likely to be forced out by foreclosure. In distressed housing markets, it is expected that many such properties will not attract new, financially stable owner-occupants, but will remain vacant over the long-term, thus ceasing to generate any tax revenue for the County.

In the following major section of this report (“Impact of Tax Lien Sales”), data are presented showing the property redemption, foreclosure, transfer, and vacancy rates associated with the 2011-2013 certificate sales. As will be noted later on pages 31-33, Woods Cove’s collection rate is significantly lower than the collection rate the County experienced when it utilized its own internal collection methods. Unfortunately, with respect to foreclosure and vacancy, it is beyond the scope of this study to determine what those rates would have been, had the County utilized its own internal collection methods instead of selling tax certificate liens. With respect to this, the goal of this study is simply to raise the issues and recommend further examination by the County, since it is clearly within the County’s financial interest to determine whether short-term tax certificate sales undermine the long-term viability of the County’s tax base.

### C. Findings regarding Property Tax Delinquency and Collection

- Cuyahoga County needs property tax revenue for schools, police, fire, social services, and other core County and municipal operations.
- From 2009 to 2014, residential tax delinquency grew from \$89.9 million to \$214.6 million and the average delinquency per parcel increased from \$3,064 to \$5,734.
- During the same period, due to staff reductions in the Fiscal Office, the County’s internal capacity for collecting delinquent taxes was drastically reduced. The number of staff in the Treasurer’s Office was cut by 55% (from 83 to 37), and the unit dedicated to calling each taxpayer prior to foreclosure was eliminated altogether.
- The County has shifted prosecutorial resources from judicial tax foreclosures to BOR foreclosures, which positively impacts the disposition of vacant properties to the Cuyahoga Land Bank, but further reduces the County’s internal ability to recoup delinquent tax revenue.
- The reduction in the County’s internal tax collection capacity is highly questionable at a time when delinquency is increasing; any weakening of tax collection capacity could serve to increase the County’s reliance on tax lien sales to cover essential services.
- The selling of public debt (tax liens) to private parties is not a traditional tax collection method. The necessity for a non-traditional means of generating revenue must be viewed in relation to the taxing authority’s capacity to collect taxes through traditional means.

- Tax lien sales transfer the profitable function of debt collection from the County to a third-party entity, depriving the County of this potential revenue source.
- While tax lien sales bring an influx of cash into the County in the short term, the associated redemption, foreclosure, and vacancy rates should be further examined to determine whether tax lien sales undermine the County's tax base over the long term.

## Impact of Tax Lien Sales

### A. Who is affected by tax lien sales?

The data in the previous section show that, at least in the short-term, tax lien sales have a significant, positive fiscal impact on County government divisions by rapidly recovering millions of dollars in delinquent tax revenue.

However, tax lien sales are not conducted in a vacuum; these sales also impact communities, neighborhoods, and homeowners, and those impacts may not be as positive. Scholarly reports have raised serious concerns that tax lien sales might contribute to foreclosures, vacancies, and blight, and have a disproportionately negative impact on economically vulnerable communities, including low-income communities of color.

This study aims to ascertain these impacts of tax lien sales. In this section, utilizing data related to the 2011-2013 sales, we examine key outcomes of tax lien sales, including redemption, foreclosure, and vacancy rates; the capacity of the tax lien purchaser to function as a property manager; and the prevalence of deteriorating property conditions shown by examination of actual properties in the purchaser's portfolio and rates of vacancy, condemnation, and demolition. We also look at the impacts of tax lien sales on already vulnerable and distressed communities, including communities with high minority populations and high-poverty neighborhoods.

### B. Specific Impacts of Tax Lien Sales

#### 1. Property Redemption

One of the key measures of success for a tax lien sale program is its "redemption rate". A debtor's "right of redemption" or "right to redeem" means "the right to disencumber property or to free it from a claim or lien."<sup>30</sup> A homeowner whose property is subject to delinquent tax liens "redeems" or "recovers" the property by making full payment due. Specifically, the Ohio

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<sup>30</sup> Black's Law Dictionary, available at <http://thelawdictionary.org/right-of-redemption/>.

Revised Code provides that the homeowner can “redeem” the property any time before a sheriff’s sale is confirmed, by paying the full amount of unpaid taxes, assessments, penalties, interest, charges, and court costs.<sup>31</sup> The homeowner can pay the full amount up front or, in certain circumstances, can utilize a payment plan.<sup>32</sup> If Woods Cove holds multiple liens on a property<sup>33</sup> “redemption” occurs only when the homeowner has paid all of them. The homeowner remains subject to foreclosure by Woods Cove if even one certificate continues to encumber the property.

We acknowledge that in cases where a tax lien purchaser holds multiple liens on a property, it may be a common practice in the tax lien industry for the holder of the liens to treat the pay-off of each individual tax lien certificate as its own “certificate redemption”, thus resulting in a claim that a property is “partially redeemed”. We reject this definition for the purposes of this study for the following reasons. First, the term redemption refers to property recovered. Debts and liens are not “recovered” - they are paid off or extinguished. Property is recovered. Second, under both Ohio law and historic English real property law, a property is not redeemed if it is still subject to a lien.

According to the Treasurer’s Office, of the properties on which Woods Cove currently holds tax liens (4,101 that had not been redeemed as of July 28, 2014), 909 (14%) are currently on payment plans.<sup>34</sup> While the future redemption rates for those parcels cannot yet be measured, the Study Committee has been able to gather significant data on the redemption rates expected by Woods Cove and those resulting so far from the 2011-2013 sales.

Lien Servicing, the servicer for Woods Cove, has indicated to the Study Committee that the average redemption rate on tax liens nationally is over 95%.<sup>35</sup> When Cuyahoga County uses its own internal collection methods (customer service, payment plans, and foreclosure), the

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<sup>31</sup> R.C. 5721.25.

<sup>32</sup> R.C. 5721.25. The payment plan option is available only to taxpayers who have never defaulted on a payment plan prior to foreclosure and only for properties that are in compliance with all applicable zoning regulations, land use restrictions, and building, health, and safety codes. The payment plan can extend over five years and must cover all of the unpaid taxes, assessments, penalties, interest, charges, and court costs. R.C. 5721.25.

<sup>33</sup> As noted previously, Woods Cove holds multiple liens on many of the 6,599 properties subject to the 2011-2013 tax lien sales, due to the requirement that Woods Cove purchase all tax liens associated with each property. 2013 County Contract, Article II, Sec. 2.4. See R.C. 5721.42.

<sup>34</sup> Data provided by the County Treasurer’s Office on Jan. 7, 2015.

<sup>35</sup> Interview with Michael Wehenkel, Davenport Financial.

average property redemption rate is between 50% and 75%.<sup>36</sup> According to Lien Servicing, Woods Cove has taken the economic realities of Cuyahoga County into account and projects a redemption rate of between 70% and 90% for the 2012 and subsequent certificate sales.<sup>37</sup> As noted below in Figures 11 and 12, the redemption rate experienced by Woods Cove is much lower.

Woods Cove claims to have invested heavily in efforts to contact delinquent taxpayers early and promote redemption or payment plans. In Cleveland, Woods Cove has opened a downtown office that Woods Cove states is staffed by 25 employees, including 12 customer service representatives who send letters to delinquent taxpayers, work with them in person or by phone, visit the properties to engage directly with them, and leave notices at the properties.

Nevertheless only 39.6% of the tax lien certificates sold to Woods Cove from 2011 to 2013 were paid off as of July 28, 2014. This number may increase as the 2012 and 2013 certificates age, but this is below the County’s redemption rate of 50-75% and far below Woods Cove’s projected goal of 70-90%, and even further below the stated national tax lien industry average redemption rate of 95%.

Year of Base Sale	Certificates Paid Off	Average Time Since Initial Sale
2011	45%	33 months
2012	50%	25 months
2013	19%	11 months
All	40%	22 months

Figure 11: Percent of tax lien certificates by year of first certificate sale and redemption status. Source: Analysis of Cuyahoga County Treasurer, Woods Cove, and NEO CANDO data.

Because a single property can have multiple delinquencies and tax lien certificates, the percent of taxpayer properties redeemed<sup>38</sup> was slightly lower than the percent of certificates paid off: 37.9%, or 2,498 properties. This means that approximately 6 out of 10 properties for which tax certificates were sold during 2011-2013 were not redeemed by the homeowners and could therefore still be destined for foreclosure sale.

<sup>36</sup> Interview with Wade Steen, former County Fiscal Officer.

<sup>37</sup> Interview with Michael Wehenkel, Davenport Financial.

<sup>38</sup> As stated above, a property is not considered to be redeemed until all certificates associated with the property are paid off.

In addition to looking at redemption rates generally for the 2011-2013 tax certificate sales, the Study Committee examined redemption rates by property location, tenancy status, and property type. Figure 12 on the next page shows a full list of redemption rates by location.

Suburb	Count	Rate	Cleveland Neighborhood	Count	Rate
Bentleyville	1	NA			
Brooklyn Heights	1	NA			
Glenwillow	2	NA			
Hunting Valley	2	NA			
Linndale	1	NA			
Moreland Hills	1	NA			
Cuyahoga Heights	6	83%			
Lyndhurst	37	78%			
Highland Heights	13	77%			
Brooklyn	20	75%			
Walton Hills	8	75%			
Westlake	63	73%			
Fairview Park	37	73%			
Mayfield Village	11	73%			
North Olmsted	93	71%			
Solon	48	71%			
Brecksville	27	70%			
Bay Village	23	70%			
North Royalton	46	70%			
Parma Heights	48	69%	Edgewater	30	63%
Brook Park	47	66%			
Beachwood	26	65%			
Chagrin Falls Township	8	63%			
North Randall	8	63%			
Strongsville	64	63%			
Orange	13	62%			
Seven Hills	26	62%			
University Heights	57	60%			
Richmond Heights	49	59%	Ohio City	38	55%
Lakewood	176	59%	Downtown	20	55%
Berea	29	59%			
Mayfield Heights	41	59%			
Independence	12	58%			
Rocky River	40	58%			
Gates Mills	11	55%			
Oakwood	28	54%			
Parma	216	52%			
Bratenahl	4	50%			
Cuyahoga Valley	4	50%			
Pepper Pike	10	50%			
South Euclid	107	49%	Kamm's	88	49%
Olmsted Falls	25	48%	Tremont	26	46%
Middleburg Heights	21	48%	Old Brooklyn	170	46%
Broadview Heights	24	46%	University	7	43%
Bedford Heights	64	45%			
Olmsted Township	14	43%			
Unknown Geog.	54	43%			
Cleveland Heights	230	40%			
Bedford	82	39%	North Shore Collinwood	124	35%
<b>CUYAHOGA COUNTY (ALL)</b>	<b>6594</b>	<b>38%</b>	Jefferson	123	35%
Shaker Heights	102	37%	Bellaire-Puritas	121	35%
Euclid	374	35%	Lee-Harvard	216	33%
Warrensville Heights	198	34%	West Boulevard	159	33%
Garfield Heights	331	34%	Goodrich-Kirtland Pk	19	32%
Woodmere	3	33%	Cudell	62	31%
Maple Heights	363	28%	Lee-Seville	75	29%
Valley View	4	25%	Central	7	29%
Newburgh Heights	18	22%	Euclid-Green	63	29%
			Buckeye-Shaker Square	90	28%
			Detroit Shoreway	54	28%
			Fairfax	18	28%
			Brooklyn Centre	82	27%
			Broadway-Slavic Village	137	26%
			Glenville	277	26%
			Hough	21	24%
			St.Clair-Superior	22	23%
			Clark-Fulton	72	22%
			Kinsman	37	22%
			Union-Miles	300	21%
			Stockyards	85	21%
			Mount Pleasant	305	21%
East Cleveland	206	14%	Collinwood-Nottingham	131	18%
Highland Hills	9	11%	Buckeye-Woodhill	29	10%

*Figure 12: Parcel redemption by Cuyahoga neighborhood and suburb. Source: Analysis of Cuyahoga County Treasurer, Woods Cove, and NEO CANDO data. Redemption information as of July 2014.*

As shown in Figure 12 above, redemption rates varied considerably by location, from a low of 10% to a high of 83%, with an overall redemption rate for Cuyahoga County of 37.9%. The most obvious difference between locations was that rates were lower in areas with weaker real estate markets, and higher in areas with stronger markets. As an investment in which the purchaser strives to recoup the certificate purchase price directly from the homeowner, tax lien sales were most “successful” in the stronger market suburbs such as Bay Village (69.6%), Brecksville (70.4%), Fairview Park (72.3%), North Olmstead (69.8%), Solon (71.2%), and Westlake (73%). However, even these strongest markets in Cuyahoga County barely made it to the level projected by Woods Cove, which was an overall redemption rate for Cuyahoga County of 70-90%.

As shown in Figure 12, the least likely places for a certificate to be redeemed were the areas of the County with high minority populations: eastern inner-ring suburbs and the east side neighborhoods of Cleveland. Suburbs with especially low redemption rates included East Cleveland (14%), Maple Heights (28.1%), Bedford (38.6%), Cleveland Heights (40%), Euclid (33.8%), Garfield Heights (33.7%), Shaker Heights (37.9%), South Euclid (40.1%), and Warrensville Heights (33.8%). The redemption rate for the entire City of Cleveland was only 29.6%, and virtually all of the neighborhoods on the east side had even lower redemption rates. It is also striking that locations with the highest number of parcels with certificates, such as Maple Heights (363), Mount Pleasant (305), Union Miles (300), and Glenville (277) are also the places with the least likelihood of redemption.

As of January 5, 2015, Woods Cove has had to initiate foreclosure on 2,052 properties, and two-thirds of those, 1,374 properties, are on the east side of Cleveland and in the east inner ring suburbs of the County.<sup>39</sup>

Since Figure 12 suggests that a significant number of non-redeemed properties are located in areas generally believed to be weaker housing markets, we decided to take a closer look at the relationship between redemption and market value. Figure 13 below indicates that the median market value for redeemed properties studied is \$75,850 and the median value for properties not redeemed is \$56,500. Half of the 4,100 unredeemed properties are below \$56,000 in market value, and half are above \$56,500.

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<sup>39</sup> Data extracted from NST data system at Case Western Reserve University.

### Redemption and Market Value

	Redeemed	Not Redeemed
Count	2,494	4,100
Mean	\$ 112,587	\$ 73,043
Median	\$ 75,850	\$ 56,600
Maximum	\$ 3,769,700	\$ 3,021,000
Minimum	\$ 3,300	\$ 2,600

Figure 13: Parcel redemption by estimated market value. Source: Analysis of Cuyahoga County Fiscal Officer data provided to NEO CANDO at Case Western Reserve University. Redemption information as of July 2014.

Figure 14 below shows that among non-redeemed properties the area with the lowest median market value is the East Side of Cleveland at \$41,550. The next lowest area is the West Side of Cleveland at \$55,300 followed by the East Inner Suburbs at \$63,200.

### Redemption Status By Cuyahoga Region

		Redemption Status					
		Redeemed			Not Redeemed		
		Estimated Market Value			Estimated Market Value		
		Count	Mean	Median	Count	Mean	Median
Cuyahoga Region	Unidentified area	26	161,108	11,6450	31	54,890	44,000
	East Inner Suburb	637	94,605	67,000	1,305	73,918	63,200
	East Side of Cleveland	485	59,937	45,900	1,412	48,846	41,550
	Outer Suburb	630	183,956	130,600	418	153,058	118,350
	West Inner Suburb	313	125,738	103,600	225	112,406	98,200
	West Side of Cleveland	403	79,462	63,200	709	60,747	55,300

Figure 14: Parcel redemption and market value by Cuyahoga Regions. Source: Analysis of Cuyahoga County Fiscal Officer data provided to NEO CANDO at Case Western Reserve University. Redemption information as of July 2014.

At present Cuyahoga County excludes from tax lien sales any property with a market value of \$20,000 or less. Nevertheless this has still resulted in an overall low rate of redemption which appears to impact some neighborhoods more than others. For our last analysis we considered what would happen if the County increased the cut-off to \$50,000. Figure 15 below shows the number of properties that would have been excluded from the sales we studied if a \$50,000 cut-off had been used. Some have raised a concern that if a higher cut-off was in place, it would result in entire areas, such as all of Cleveland, being eliminated from tax lien sales. Figure 15 below shows that the largest number of properties excluded would be on the East side of Cleveland, but it also demonstrates that all regions of the county would still participate in tax lien sales and the revenue they generate.

**Tax Lien Sale Properties Over or Under \$50,000**

		Over or under \$50K	
		\$50K and under	Over \$50K
		Count	Count
Cuyahoga Region	Unidentified area	21	36
	East Inner Suburb	508	1,434
	East Side of Cleveland	1,271	626
	Outer Suburb	44	1,004
	West Inner Suburb	24	514
	West Side of Cleveland	364	748

Figure 15: Tax Lien Sale market value above and below \$50,000. Source: Analysis of Cuyahoga County Fiscal Officer data provided to NEO CANDO at Case Western Reserve University.

In connection with the 2011-2013 certificate sales, non-owner-occupied (tenant-occupied) properties were slightly more likely to be redeemed than owner-occupied properties. For non-owner-occupied properties, the redemption rate was 41.6%, compared to 35% for owner-occupied properties. See Figure 16 below.

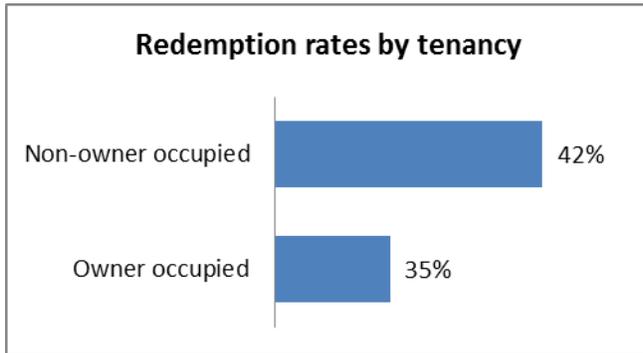


Figure 16: Redemption rates by tenancy. Source: Analysis of Cuyahoga County Treasurer, Woods Cove, and NEO CANDO data.

In terms of property type, redemptions were more likely on commercial properties (46.3% of properties redeemed) than on residential properties (37.2% redeemed). At the same time, many fewer commercial properties were encumbered with tax liens (420 commercial properties compared to 6,121 residential properties). See Figure 17 below.

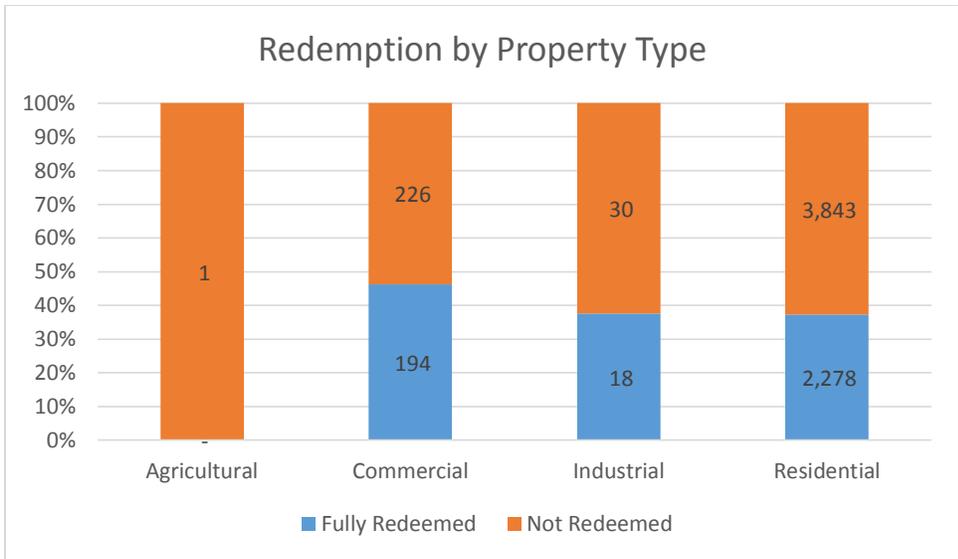


Figure 17: Redemption by property type. Source: Analysis of Cuyahoga County Treasurer, Woods Cove, and NEO CANDO data.. Redemption information as of July 2014.

Redemptions were most likely on residential condominiums (50.6% redeemed) and single family dwellings (39.0% redeemed), though there is a much higher number of tax lien certificates on single family properties than on any other residential property type. See Figure 18 below.

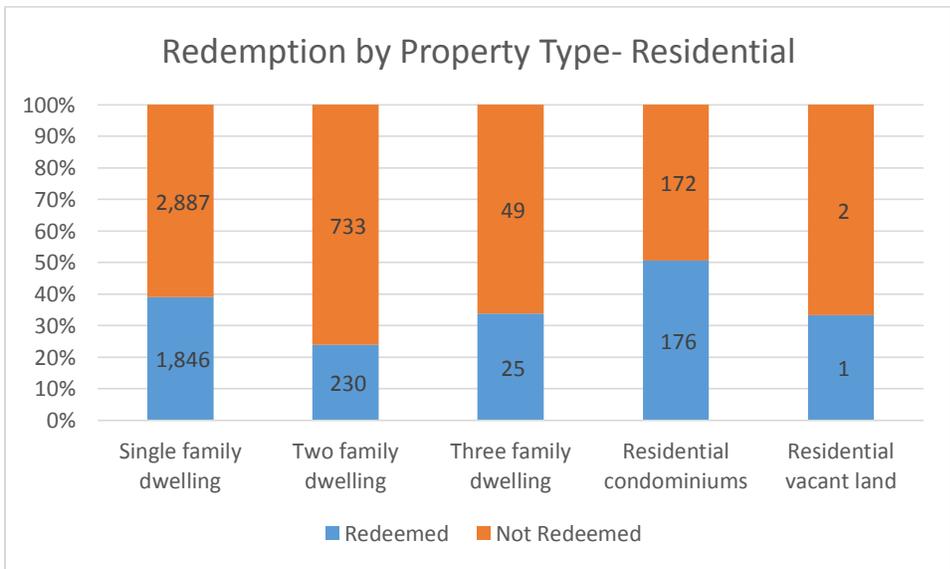


Figure 18: Redemption by Property Type- Residential. Source: Cuyahoga County Treasurer, Woods Cove, and NEO CANDO data. Redemption information as of July 2014.

## 2. Vacancy and Abandonment

The vacancy rate of all tax-foreclosable structures in Cuyahoga County is 28.8%<sup>40</sup>. However, as described above, Cuyahoga County's practice is to exclude vacant structures from tax lien certificate sales, so the vacancy rate in the 2011-2013 tax lien sale pools should have been at or around 0% at the time of certificate sale.

As of July 28, 2014, of the 4,101 parcels on which tax lien certificates had been sold to Woods Cove and not yet redeemed, there were 345 properties (i.e., 8% of the total parcels) presumed to be vacant and 24 vacant lots. These can be further categorized as follows:

- Among properties with certificates sold in the 2011 tax lien sale, 13.4% (306 parcels) were unoccupied as of July 28, 2014, i.e., approximately 33 months after the tax lien sale.
- Among properties with certificates sold in the 2012 tax lien sale, 7.22% (145 parcels) were unoccupied as of July 28, 2014, i.e., 25 months after the tax lien sale.
- Among properties with certificates sold in the 2013 tax lien sale, 3% (68 parcels) were unoccupied as of July 28, 2014, i.e., 11 months after the tax lien sale.

Between July and October 2014, each of those percentages increased slightly. Of the properties for which certificates were sold in the 2011 certificate sale pool, 17% were vacant by October 2014, as shown in Figure 19. From the 2012 pool, 10.2% of properties were vacant by October 2014, and from the 2013 pool, 5.4% were vacant.

Unfortunately, it is beyond the scope of this report to determine whether these vacancy rates would have been lower if the County had retained ownership of the tax liens rather than selling them. Delinquent taxes may be harder for homeowners to pay off after tax lien certificate sales, due to the high interest and fees that get added to the debt, and therefore, it is possible that tax lien sales might hinder redemption and lead to vacancy. However, the Study Committee did not have the necessary data to determine whether and by how much tax lien sales increase vacancy.

What is clear from the 2011-2013 data is that, in Cuyahoga County, a percentage of properties become vacant after certificate sale, and that percentage increases as the certificates age. The ultimate disposition of those vacant properties should be of significant concern to the County, since there is well-documented evidence that vacancies decrease property values throughout neighborhoods, shrinking the County's property tax base.

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<sup>40</sup> Data extracted from NST data system at Case Western Reserve University.

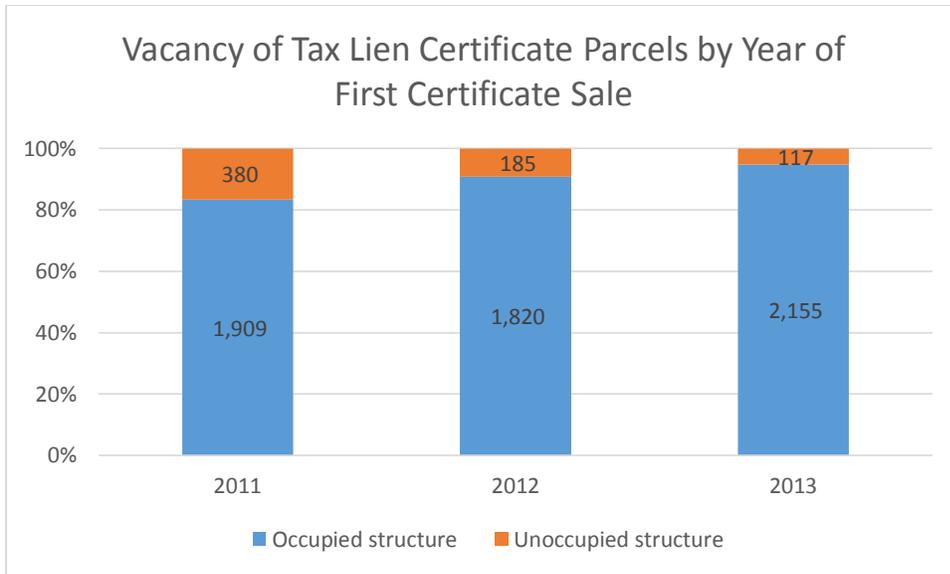


Figure 19: Occupancy of tax lien sale properties. Notes: Properties with structures only. Source: Analysis of Cuyahoga County Treasurer, Woods Cove, and NEO CANDO data. Vacancy information as of October 2014, and is a combination of the City of Cleveland's Vacant and Distressed Survey and USPS vacancy data.

### 3. Condemnations and Demolitions

Of the 6,599 properties on which tax certificates were sold during 2011-2013, 63 properties are currently known to be condemned, are slated to be demolished by the Cuyahoga Land Bank, or have already been demolished by the City of Cleveland or Cuyahoga Land Bank.

### 4. Foreclosure

Properties with tax lien certificates that are not redeemed are eventually foreclosed upon by the tax lien purchaser. Unless the homeowner enters into a payment plan or redeems in a lump sum, the property will proceed through sheriff's sale and change in ownership. In this scenario, foreclosure and sheriff's sale can have both positive and negative impacts on the community. Displacing the current homeowner through foreclosure and sheriff's sale can mean increasing resident instability, but may also lead to the property's returning to tax-generating, productive use. However, these two outcomes are heavily dependent on local market conditions and levels of blight and neighborhood distress. In this section, we examine the rates of foreclosure filings on parcels with tax lien certificates, the types of foreclosures filed, and the differences between tax foreclosures filed by the certificate purchaser and tax foreclosures filed by the County Prosecutor.

Of the properties with tax lien certificates sold between 2011 and 2013, 40% overall had a foreclosure filing after the first certificate sale. Properties with the first certificate sale in 2011 were much more likely to have a foreclosure filing than properties with the first certificate sold

in 2012 or 2013. See Figure 20 below. Of the foreclosures filed, most (83.8%) were tax certificate foreclosures, but 15.9% were mortgage foreclosures, and 0.3% fell in other foreclosure categories.

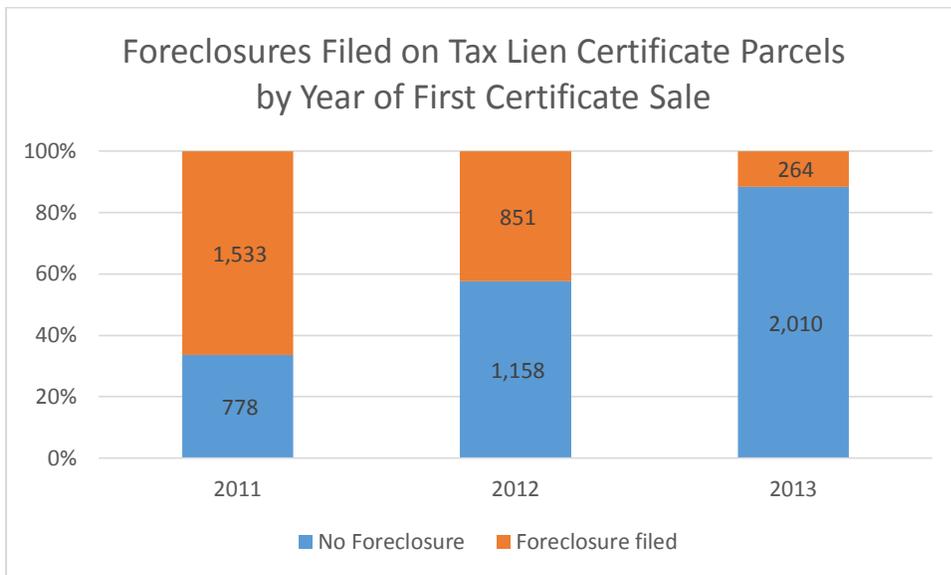


Figure 20: Foreclosures Filed on Tax Lien Certificate Parcels by Year of First Certificate Sale. Source: Analysis of Woods Cove, Treasury, and NEO CANDO data. Foreclosure filing information as of December 3, 2014.

While tax foreclosure actions employ essentially the same legal process and are filed in the same court, regardless of whether they are tax lien certificate foreclosures brought by a certificate purchaser or judicial tax foreclosures filed by the County Prosecutor, they can differ in some important respects.

First, tax lien certificate foreclosures can lead to the certificate purchaser becoming the bulk owner of hundreds of distressed properties throughout Cuyahoga County. This is because there tend to be few bidders at sheriff’s sales of distressed properties, so the certificate purchaser ends up taking title to many properties. This raises community concerns about the capacity and intention of tax lien purchasers—whose stated business models typically do not include property preservation—to manage, rehab, sell, or demolish those properties responsibly. To date, the experience with tax lien purchasers who became bulk property holders in Cuyahoga County has been negative. Aeon Financial, LLC, a buyer of Cuyahoga County tax lien certificates prior to 2011, was cited with numerous municipal code violations, did not pay property taxes, and bulk-transferred its properties to other LLCs in an apparent effort to avoid prosecution. The current purchaser, Woods Cove, only began taking title to properties through foreclosure in the summer of 2014. However, as is documented later in this report, indications were already surfacing in late 2014 of instances of Woods Cove’s noncompliance with municipal codes.

In contrast, if the County—instead of the certificate purchaser—filed judicial foreclosure actions, the County would retain significant control over their disposition and would have a vested interest in coordinating with municipalities, community development corporations, and County and City Land Banks to create a systematic property disposition plan designed to strengthen the County’s property tax base and benefit neighborhoods. The County and municipalities would not be at the mercy of unpredictable property disposition decisions made by a for-profit company. Since the Cuyahoga Land Bank began operations in 2009, its capacity for dealing with distressed property has been well documented. A recent study published by Harvard University found that vacant properties in Cuyahoga County acquired by the land bank were three times more likely to have a positive outcome than similar properties acquired by private investors.<sup>41</sup>

Second, the homeowners struggling to obtain payment plans or defend themselves against foreclosure actions would likely be better protected in dealing with the County—a public governmental body subject to a level of transparency and scrutiny of its operations—than a private investor. Indeed, legal violations by Woods Cove with respect to payment plans and foreclosures have been documented by The Legal Aid Society of Cleveland, in a letter that Legal Aid sent to the County Executive and County Inspector General in January 2015; the letter is attached to this report at Appendix A. Legal Aid identified cases in which Woods Cove and Lien Servicing charged significantly more interest on payment plans than permitted by law, proceeded with a foreclosure action despite a homeowner’s payments, sent misleading and deceptive letters in relation to foreclosure actions, and required homeowners to give up legal rights in order to obtain payment plans. While such violations could theoretically be committed by a County government, the greater scrutiny and public accountability to which a governmental entity is subject would minimize the chance of abuse.

## 5. Property Transfer

As described above, even after a foreclosure is filed, taxpayers have the opportunity to redeem the property up to the point of confirmation of sheriff’s sale. Only once the sheriff’s sale is confirmed does the property transfer to a new owner. In Figure 21 below, we examine the prevalence of property transfer of non-redeemed properties.<sup>42</sup> Like foreclosure filing, property transfer is more prevalent in properties in the earliest certificate pool: 23% of those properties

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<sup>41</sup> Ford et al, “The Role of Investors in The One-To-Three Family REO Market: The Case of Cleveland,” Harvard University (December 2013).

<sup>42</sup> Property redemption information is as of July 2014, while property transfer information is as of December 2014. Some parcels that have transferred could have been redeemed between July and December. R.C. 5721.25 contemplates that transfer could occur while the original homeowner is in the midst of redeeming through a payment plan, though due to other restrictions in the Revised Code, this scenario is not likely.

that were not redeemed have transferred ownership since the first tax lien certificate sale associated with the property. Of the properties whose first tax lien was sold in 2012, 10% of the unredeemed properties have transferred ownership. Among properties with a first tax lien sold in 2013, 7% have transferred ownership.

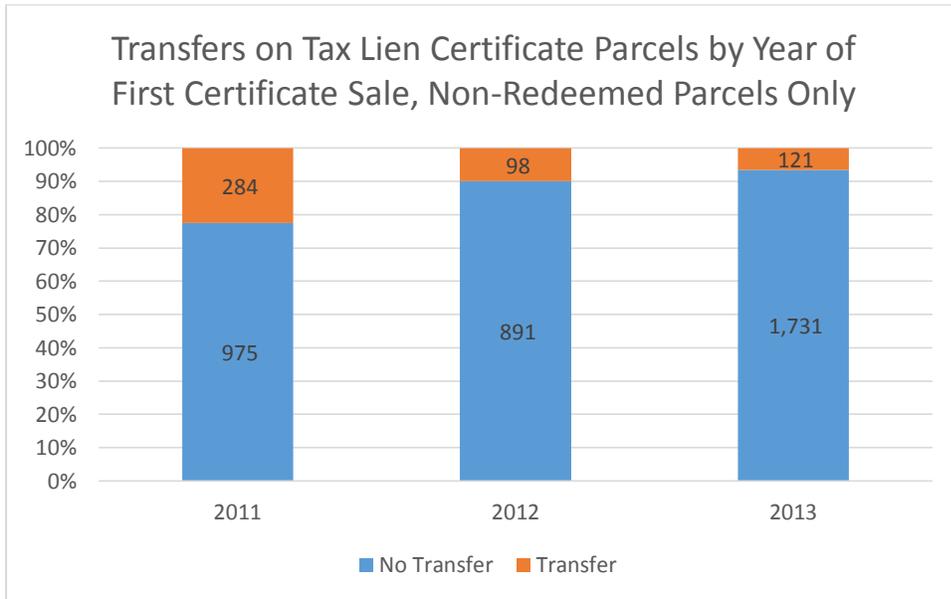


Figure 21: Transfers on Tax Lien Certificate Parcels by Year of First Certificate Sale, Non-Redeemed Parcels Only. Source: Analysis of Cuyahoga County Treasurer, Woods Cove, and NEO CANDU data. Redemption information as of July 2014. Foreclosure filing information as of December 3, 2014.

## 6. Impacts on Vulnerable Communities

As noted above, after the 2011-2013 certificate sales, the lowest property redemption rates were found in the predominantly minority communities on the east side of Cleveland and the east inner ring suburbs. These geographic areas are also the communities with higher concentrations of lower-income families.

Figure 22 on the following page tracks the outcome by geography of the 6,595 properties subject to one or more Woods Cove tax liens. In addition, the predominantly minority communities on the east side of Cleveland and the east inner ring suburbs are highlighted. The table notes the percent of properties not in foreclosure, those that have progressed to foreclosure, and those that have completed foreclosure and are now owned by Woods Cove, and indicates vacancy at each level.



Figure 22: Vacancy status of properties with Woods Cove Tax Lien Certificates, by Cuyahoga region. Source: Analysis of NEO CANDO data, as of January 5, 2015. Includes properties owned by Woods Cove and Woods Cove affiliate Lakeside REO Ventures.

As shown in Figure 22, prior to foreclosure filing, properties with Woods Cove tax lien certificates are nearly equally divided between those in the predominantly minority communities and the rest of the County. However, once properties are subject to foreclosure,

a disproportionately higher percent (67%) of the properties are in the minority communities. That disproportion jumps even higher once foreclosure is completed and the property is taken over by Woods Cove. Eighty-four percent (84%) of the 265 properties in Woods Cove's possession as of January 2015<sup>43</sup> are on the east side of Cleveland or in the east inner ring suburbs. Finally, 93 of the 265 properties Woods Cove now owns are vacant, and 81 (87%) of those are in the most vulnerable communities in Cuyahoga County.

In addition to considering these disparate patterns by broader geography, tax delinquency and tax lien sales are more likely to be located in high-minority neighborhoods (defined here as census tracts). Figure 23 on the following page shows the percent of parcels in the 2011-2013 tax lien certificate pools by the percent of the nonwhite population in the census tract where the parcel is located. The figure also shows the percent of parcels in the comparable tax delinquency pool (parcels with any certified delinquency between 2009 and 2011) by the percent of nonwhite population.

Figure 23 below shows that the share of tax certificate parcels by neighborhood racial and ethnic makeup is roughly equivalent to the share of tax delinquent parcels. At the same time, there is a heavy concentration of tax certificates and tax delinquency in the highest minority neighborhoods, neighborhoods with 90 % or greater nonwhite population. Nearly one-third, 30% of all tax lien certificates sold, are located in neighborhoods with 90 percent or greater non-white population, and nearly 50% of all tax lien certificates sold are located in neighborhoods with greater than 60% nonwhite population.

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<sup>43</sup> Woods Cove only began taking properties via foreclosure in the middle of 2014. It is likely this number will increase significantly in the coming year as new foreclosures are filed and foreclosures currently in progress will be completed.

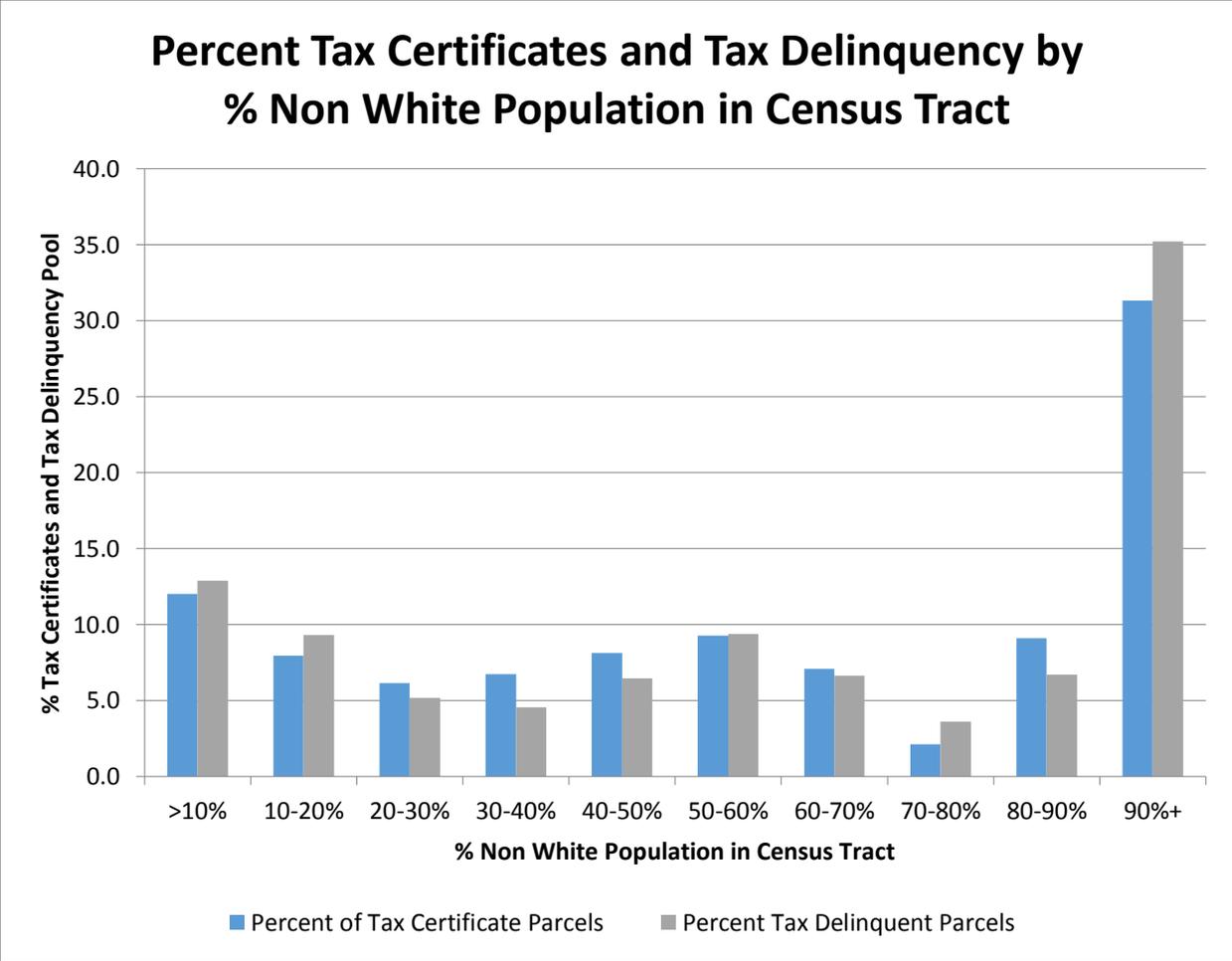


Figure 23: Percent tax certificates and tax delinquency by percent nonwhite population in census tract. Source: Analysis of Cuyahoga County Treasurer, Woods Cove, and NEO CANDO data. Neighborhood race/ethnicity from 2010 Decennial Census.

Tax lien certificates sold in these neighborhoods are linked to higher numbers and rates of properties with foreclosure filings, as shown in Figure 24 on the next page.

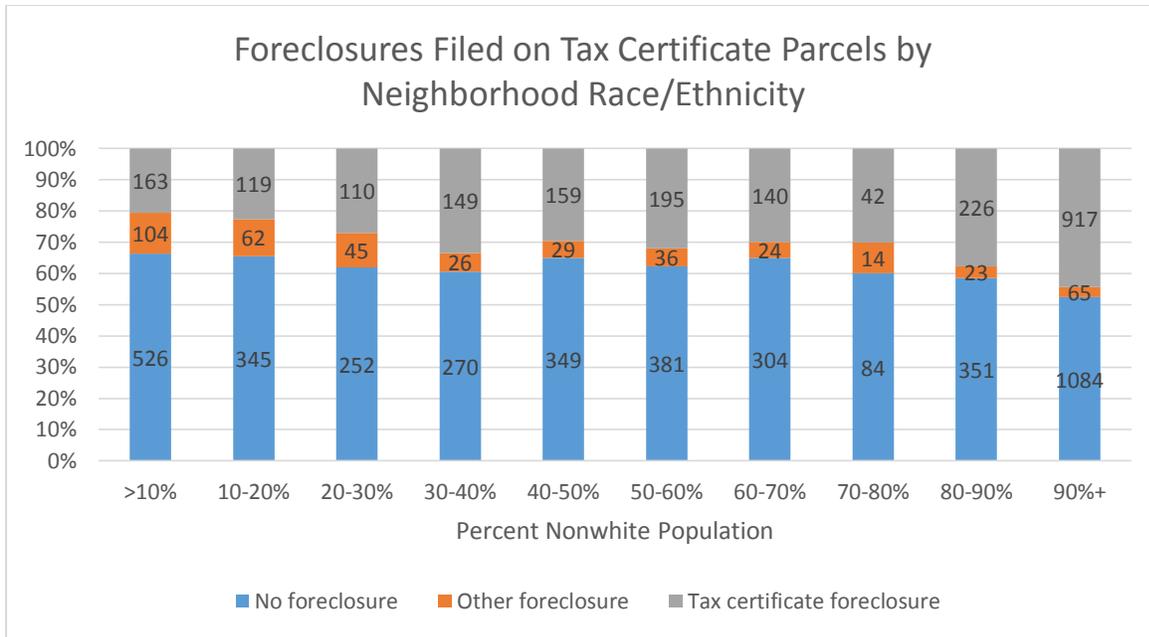


Figure 24: Foreclosures filed on tax certificate parcels by neighborhood race/ethnicity. Source: Analysis of Cuyahoga County Treasurer, Woods Cove, and NEO CANDO data. Neighborhood race/ethnicity from 2010 Decennial Census.

An examination of foreclosure rates by tax certificate sale date reveals significant differences between neighborhoods with different concentrations of minority populations. Of properties with tax certificates sold in 2011, properties in neighborhoods with 90% or greater minority population are twice as likely to have a foreclosure filed than properties in neighborhoods with 10% or less minority population.

PERCENT NON-WHITE POPULATION	2011				2012				2013			
	Foreclosure not filed	Tax Certificate Foreclosure filed	Other foreclosure filed	% Tax Certificate foreclosure filed	Foreclosure not filed	Tax Certificate Foreclosure filed	Other foreclosure filed	% Tax Certificate foreclosure filed	Foreclosure not filed	Tax Certificate Foreclosure filed	Other foreclosure filed	% Tax Certificate foreclosure filed
>10%	126	90	49	34%	188	70	34	24%	212	3	21	1%
10-20%	86	69	28	38%	140	48	23	23%	119	2	11	2%
20-30%	61	69	13	48%	80	40	22	28%	111	1	10	1%
30-40%	51	94	8	61%	81	51	15	35%	138	4	3	3%
40-50%	73	104	10	56%	102	53	14	31%	174	2	5	1%
50-60%	58	117	13	62%	97	68	14	38%	226	10	9	4%
60-70%	58	85	8	56%	88	45	8	32%	158	10	8	6%
70-80%	12	23	9	52%	20	18	4	43%	52	1	1	2%
80-90%	60	146	10	68%	97	71	10	40%	194	9	3	4%
90%+	193	548	40	70%	265	227	16	45%	626	142	9	18%

Figure 25: Foreclosure filings by percent nonwhite population. Source: Analysis of Cuyahoga County Treasurer, Woods Cove, and NEO CANDO data. Neighborhood race/ethnicity from 2010 Decennial Census.

We also examined the prevalence of tax delinquency and tax lien certificate sales by neighborhood poverty rate, shown in Figure 26 below. Neighborhood poverty rates are correlated with other negative outcomes for individuals living in neighborhoods, like higher crime. Because negative effects of neighborhood poverty are greatest when the neighborhood poverty rate is 20% or more, we examined the tax delinquency and tax certificate pool using this threshold.<sup>44</sup>

We found that the tax certificate pool and tax delinquency pool are nearly evenly split between neighborhoods with less than 20% poverty and neighborhoods with greater than 20% poverty. Neighborhoods with lower poverty rates make up slightly more than their share of the tax certificate pool, because they represent a smaller proportion of the tax delinquency pool.

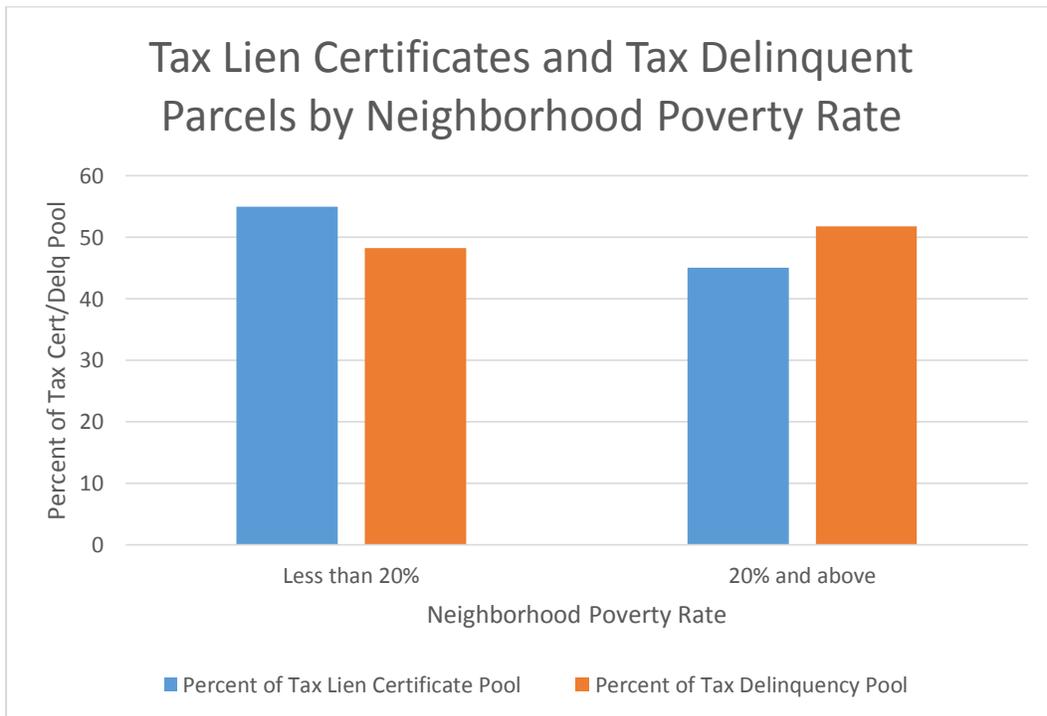


Figure 26: Tax lien certificates and tax delinquent parcels by neighborhood poverty rate. Source: Analysis of Cuyahoga County Treasurer, Woods Cove, and NEO CANDO data. Neighborhood poverty rates from 2010 Decennial Census.

Tax certificate parcels in higher poverty neighborhoods have slightly higher overall rates of tax certificate foreclosure, with 40% of tax certificate parcels in higher poverty neighborhoods experiencing tax certificate foreclosure, compared to 32% of tax certificate parcels in lower poverty neighborhoods (Figure 27, below).

<sup>44</sup> U.S. Department of Housing and Urban Development, “Understanding Neighborhood Effects of Concentrated Poverty” (Winter 2011), available at <http://www.huduser.org/portal/periodicals/em/winter11/highlight2.html>.

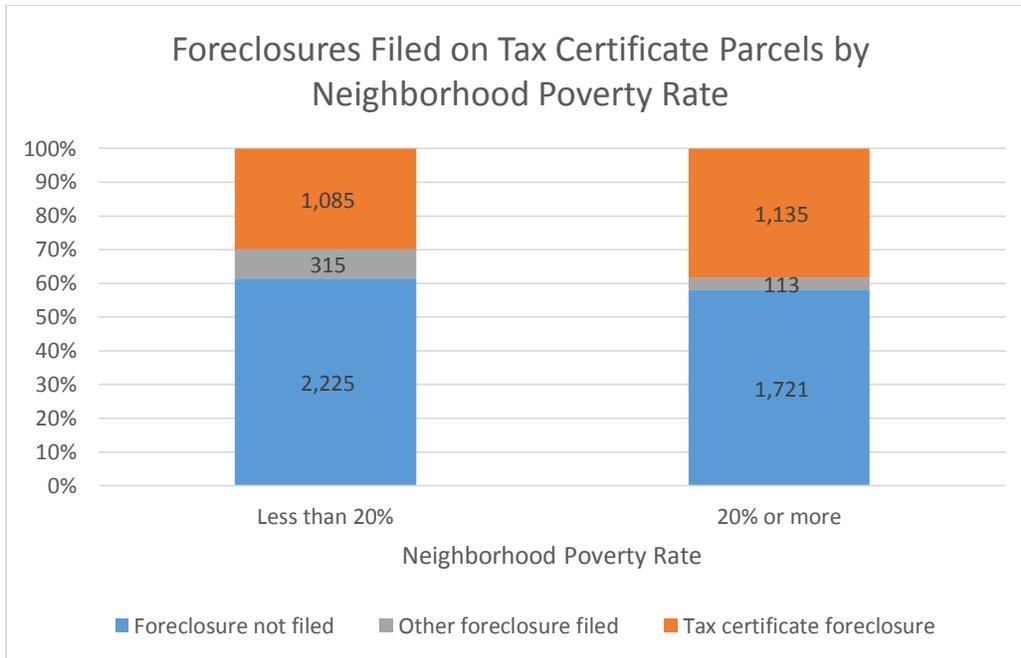


Figure 27: Foreclosures filed on tax certificate parcels by neighborhood poverty rate. Source: Analysis of Cuyahoga County Treasurer, Woods Cove, and NEO CANDO data. Neighborhood poverty rate from 2010 Decennial Census.

When examined by year of first certificate sale, the differences in foreclosure numbers by neighborhood poverty rate become greater, as shown in Figure 28 below.

NEIGHBORHOOD POVERTY RATE	2011				2012				2013			
	Foreclosure not filed	Tax certificate foreclosure	Other foreclosure filed	Percent tax cert foreclosure	Foreclosure not filed	Tax certificate foreclosure	Other foreclosure filed	Percent tax cert foreclosure	Foreclosure not filed	Tax certificate foreclosure	Other foreclosure filed	Percent tax cert foreclosure
<b>LESS THAN 20%</b>	501	642	134	<b>50%</b>	766	388	119	<b>30%</b>	958	55	62	<b>5%</b>
<b>20% OR MORE</b>	277	703	54	<b>68%</b>	392	303	41	<b>41%</b>	1052	129	18	<b>11%</b>

Figure 28: Foreclosure filings by neighborhood poverty rate. Source: Analysis of Cuyahoga County Treasurer, Woods Cove, and NEO CANDO data. Neighborhood poverty rate from 2010 Decennial Census.

## 7. Impacts on Property Conditions

We noted earlier that tax foreclosures filed by the County and those filed by a tax lien investor are similar in many respects. Both can result in a property becoming abandoned during the foreclosure. But they differ in one important respect. If a property is abandoned during a judicial tax foreclosure filed by the County, the property can still be directed to the Cuyahoga Land Bank, where a substantial track record of beneficial outcomes has been established. Properties that become vacant during a foreclosure brought by a tax lien purchaser will be controlled by the purchaser. Because tax lien purchasers in Cuyahoga County can easily

become bulk holders of distressed properties—and because the disposition of those properties impacts neighborhoods, homeowners, and the viability of the County’s property tax base—the Study Committee examined the property management and disposition practices of the current purchaser and bulk owner, Woods Cove.

After sheriff’s sale, Woods Cove takes ownership of properties through an affiliated entity named Lakeside REO. Woods Cove uses Lien Servicing (now known as Davenport Financial) to carry out its presale diligence, bulk portfolio negotiation, lien management, and REO property disposition. Davenport Financial has offices and staff in Cleveland and claims that it has 13 staff dedicated to property inspection and management.

In September and October 2014, Woods Cove’s property inventory increased from 146 to 245 properties in Cuyahoga County. Figure 29 shows the allocation of those properties across the 2011-2013 certificate pools. As of December 2014, of the 245 properties Woods Cove owned, 99 properties were vacant and 10 properties had been demolished or condemned.

Certificate Pool	Property Owned by Woods Cove	Property Not Owned by Woods Cove
2011	230	2,081
2012	15	1,994
2013	0	2,274

Figure 29: Woods Cove Property Ownership. Source: Analysis of Cuyahoga County Treasurer, Woods Cove, and NEO CANDO data. Ownership information as of December 3, 2014.

All of the properties owned by Woods Cove were acquired in 2014. One property acquired in January 2014 has a new, post-acquisition, certified delinquent tax balance of \$2,732.72. All others were acquired after May 2, 2014, and sufficient time has not passed to observe certifiable delinquent taxes.

As of December 2014, Woods Cove was marketing some of the Cuyahoga County properties it had acquired at sheriff’s sale through a Texas based company, Halo Asset Management, LLC,<sup>45</sup> using the website [www.VIPHomeShop.com](http://www.VIPHomeShop.com), which appears to cater to post-foreclosure investors. Woods Cove posted signs on the vacant properties, directing prospective buyers to that website.

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<sup>45</sup> Information obtained from the Halo Asset Management website, available at [http://www.haloco.com/assets\\_asset\\_management.html](http://www.haloco.com/assets_asset_management.html).

As of November 7, 2014, there were 72 properties in Cuyahoga County that Halo Asset Management had listed online for sale.<sup>46</sup> Of these Cuyahoga County properties, 74% were located in Cleveland. Listed prices ranged from \$3,000 for a vacant lot in Cleveland to \$90,000 for a single family home in Cleveland Heights. Almost half of the properties were being sold for very low prices, with 44% listed at \$20,000 or under. Of these, all but two were in the City of Cleveland.

Members of the Study Committee visited some of the low value properties in person, and found them in significant disrepair. For example, Figure 30 below shows a property in Cleveland’s Slavic Village neighborhood, 3884 East 74<sup>th</sup> Street, listed for sale on the website for \$8,000. This property was acquired by Woods Cove on July 2, 2014. Figure 31 through Figure 33 show that on November 5, 2014, four months later, the property was in a significant state of disrepair with no evidence of attention by Woods Cove other than the posting of the For Sale sign in the yard.

The screenshot shows the VIP Home Shop website interface. At the top, there is a navigation bar with links for PROPERTY SEARCH, FINANCING, HOW IT WORKS, and ABOUT. Below this is a banner for 'PROVIDING VALUE INVESTMENT PROPERTIES FOR INVESTORS & OWNER OCCUPANT HOMEBUYERS'. The main content area features a property listing for 'REO' at 3884 E 74th St, Cleveland, Ohio 44105, Cuyahoga County. The listing price is \$8,000, with a monthly payment of \$8,000. The property has 4 beds, 4 baths, and 3,473 sq. ft. The listing ID is 45449727 and it is marked as 'Active'. Contact information for Halo Asset Management, LLC is provided, including agent name Jason Dotson and contact details. Property information includes 4 bedrooms, 4 bathrooms, 16 total rooms, and a living area size of 3,473 sq. ft. The property is located in the Hamilton subdivision and is a multi-family dwelling. A 'New Search' sidebar on the right allows users to filter by state (Ohio), county, city, and zip code. A 'Photo' gallery shows the property from multiple angles, and a table below provides financial details: Interest Rate: 0.000%, APR: 0.000%, and Monthly Payment: \$8,000. A note indicates the property is 'Subject to credit approval'.

Figure 30: Woods Cove Owned Property, 3884 East 74<sup>th</sup> Street. Source: VIPHomeShop.com, November 5, 2014

<sup>46</sup> Properties were listed online for sale at [www.viphomeshop.com](http://www.viphomeshop.com), as of November 7, 2014.



Figure 31: Woods Cove Owned Property, 3884 East 74<sup>th</sup> Street. Source: In-Person View, November 5, 2014.



Figure 32: Woods Cove Owned Property, 3884 East 74<sup>th</sup> Street. Source: In-person view of garage, November 5, 2014.



*Figure 33: Woods Cove Owned Property, 3884 East 74th Street. Source: In-person view of unsecured rear door, November 5, 2014.*

In January 2015, Woods Cove notified the Cuyahoga County Treasurer’s Office that it had ceased marketing properties through Halo Asset Management and VIPHomeShop.com and had started using local realtors.<sup>47</sup> However, the Study Committee remains concerned about the condition and management of foreclosed properties owned by Woods Cove and its affiliate companies, especially in distressed neighborhoods. For example, the property referenced in Figure 31 through Figure 33 above was visited again on February 9, 2015 and, although now boarded, secured, and the grounds cleaned up, no permit has been posted indicating that either demolition or repair is underway – seven months after it was acquired by Woods Cove. Similar properties were visited in the Collinwood, Glenville, and Mount Pleasant neighborhoods and were found to be open, unsecured, and in disrepair – more than six months after being acquired by Woods Cove.

In specific Cuyahoga County communities, evidence suggests that Woods Cove is not complying with local housing codes during the period it has title to properties. For example, nine of Woods Cove’s distressed properties are in the Slavic Village neighborhood of Cleveland. Cleveland City Councilman Tony Brancatelli reported to VAPAC that when he contacted the Woods Cove Property Manager about these properties, the Woods Cove representative:

- Acknowledged that he had not been to any of those properties,

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<sup>47</sup> Information from Cuyahoga County Treasurer’s Office. A member of the research team checked the VIPHomeShop.com listings on February 8, 2015, and found only one Cuyahoga County property listed for sale there in connection with Woods Cove.

- Was not familiar with Cleveland housing codes and specifically was not aware of Cleveland’s requirement that the properties be secured and boarded,
- Acknowledged that Woods Cove had no regular program for inspecting, securing, or boarding the houses, and
- Questioned why Councilman Brancatelli would want a house boarded if it was only going to be demolished later.<sup>48</sup>

Similar reports from the City of Maple Heights indicate that Woods Cove has resisted complying with the city’s vacant building and point of sale ordinances, and has justified its noncompliance by misinterpreting sections of the 2013 County Contract that require compliance with municipal ordinances.<sup>49</sup>

The City of Bedford Heights reported that Woods Cove also resisted the city’s attempts to enforce compliance with local ordinances. A property owned by Woods Cove that was condemned by Bedford Heights was then sold by Woods Cove in a lease-purchase agreement for \$35,000. The City confirmed that no permits were pulled to repair the property prior to the transaction taking place, and Woods Cove failed to disclose the condemnation order to the buyer. The city’s Law Director expressed his frustration to the Study Committee by referring to the incident as “County-condoned distressed property flipping.”<sup>50</sup>

Michael Wehenkel of Davenport Financial has made presentations to community groups, including VAPAC and a county-wide Foreclosure Prevention and Counseling group, to discuss collaboration with governments and non-profits. In those presentations, Mr. Wehenkel stated that Davenport Financial has hired a local property manager to oversee the maintenance and disposal of properties it acquires at sheriff’s sale, and he described a strategy of trying to keep properties occupied through two means: rentals and land installment contracts.

Because an insufficient amount of time has passed for the Study Committee to examine either of these strategies in operation, this section briefly describes and analyzes Woods Cove’s and Davenport Financial’s stated plans to keep properties occupied.

According to Mr. Wehenkel, Davenport Financial expects rentals to be its primary focus, given the currently weak home purchase market and relatively strong rental market in Cuyahoga County. The company plans to market to both subsidized and unsubsidized tenants and has

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<sup>48</sup> Email exchange between Councilman Brancatelli and Woods Cove, 11/30/14.

<sup>49</sup> Email correspondence from 12/2/14 between David Brady, an attorney hired by Woods Cove, and John Montello, an attorney representing the City of Maple Heights.

<sup>50</sup> Phone interview between study team representative and Bedford Heights Law Director, Ross Cirincione, on 2/13/15.

contracted with Westlake Property Management to manage its rental program. A review of sample communication documents sent by Lakeside REO Ventures to property residents lends some doubt to Woods Cove's intention to bring distressed properties into full code compliance. According to the sample letter provided to the Study Committee by Woods Cove, Westlake Property Management "may be able to make certain repairs as part of entering the rental agreement," suggesting that a tenant might be expected to assume part of the repair responsibility. This indicates either an ignorance of Ohio's landlord/tenant laws or a willful disregard for them. Under the Ohio Revised Code, a tenant does have some limited responsibility for maintaining appliances but is otherwise responsible only for keeping the premises clean, safe, and sanitary. Under Ohio law, it is clearly the property owner's responsibility to "make all repairs and do whatever is reasonably necessary to put and keep the premises in a fit and habitable condition".<sup>51</sup>

According to Mr. Wehenkel, Woods Cove and Davenport Financial are also creating a land installment contract option for tenants to attempt to become property owners. Under the structure described to the Study Committee, after three years of residing in the property and making installment payments, the tenant (buyer) must obtain a bank loan for the remaining lump sum amount owed to purchase the property. If the tenant (buyer) cannot get a bank loan after three years, the tenant (buyer) may lose any down payment or other financial investment associated with the house. Tenants entering into such an arrangement will be placing themselves at significant risk. Once entering into the land contract, they lose their protected status as a tenant under Ohio law. Woods Cove will have no further obligation to make repairs, but will collect monthly land contract payments as though they were collecting rent, and because of the short 3-year time frame, may be able to use an expedited procedure to take the house back.<sup>52</sup> The tenant is also required to escrow tax payments during the installment payment term. Davenport Financial has not finalized the level of down payment required, though its stated goal is to have buyers feel sufficiently invested in the property to increase the likelihood of property maintenance and eventual purchase, suggesting that down payment requirements may be substantial.

In a letter to Interim Treasurer Sheehan dated February 3, 2015, from Brett Jaffe, President of Davenport Financial (formerly known as Lien Servicing, LLC), a detailed property management plan was presented. In the letter, which is attached as Appendix B to this report, Davenport/Woods Cove acknowledges their responsibility to properly maintain and dispose of the 339 properties currently owned by Lakeside REO, and acknowledges their purchase of liens

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<sup>51</sup> R.C. 5321.04 and 5321.05.

<sup>52</sup> Under Ohio law a land contract buyer who makes payments for less than 5 years, or pays less than 20% of the total purchase price, can be evicted as though they were a tenant. R.C. 5313.07.

on 8,124 parcels in the County and their status as a “significant property owner in the County.” This letter lists a number of strategies including:

- Employing 40 full-time employees in its new Cleveland office, with 15 individuals focused on the management of real estate holdings.
- Securing and inspecting all properties and completing a list of preservation items including: winterizations, cleanouts, boarding and securing, and stabilization of structural issues.
- The completion or ongoing renovation of 44 properties and plans to rehabilitate at least 10 properties per month during 2015.
- Avoiding eviction on 19 occupied properties through the use of rental or purchase options.

The Study Committee’s current findings related to Davenport Financial’s claims regarding property management are as follows:

- Prior to Woods Cove’s letter to the County on February 3, 2015 – more than three years after Woods Cove began purchasing liens in Cuyahoga County and more than six months after they began taking title to property – there was no evidence that Woods Cove had any plan for how they would address the distressed properties they were acquiring in Cuyahoga County.
- Rehabs: The stated goal is to rehab and sell properties to owner-occupant buyers who can qualify for FHA financing, and Davenport indicates that it has hired a full-time Rehab Manager, with the stated goal of performing ten rehabs per month. The Study Committee has confirmed that several rehabs have occurred, the majority in inner-ring suburbs. However, this appears to fall far short of the estimates provided in Davenport’s February 3, 2015 letter. Additional monitoring and ongoing verification of rehab activity is warranted.
- Cash sales of properties to investors: In its February 3, 2015 letter, Davenport states that 35% of the 339 properties it now owns are under contract to be sold. Our Study Committee has verified that 21 properties have been transferred to third parties between August 29, 2014 and February 12, 2015.
- Land Contracts: Three land contracts have been recorded, all on September 24, 2014.
- Demolitions/Donations: Woods Cove and Davenport Financial have stated that they anticipate the need to demolish or donate 10-15% of their property inventory. As described in this report, Woods Cove owns a number of properties that have been in significant disrepair since the summer of 2014, yet as of the issuance of this report, no demolitions have taken place.

### C. Findings regarding Impacts

- The current buyer of Cuyahoga County tax liens, Woods Cove, is not meeting their stated objectives. Redemption rates county-wide are significantly below the rates Woods Cove projected for investing in Cuyahoga County.
- Neighborhoods with the highest number of parcels on which tax lien certificates have been sold are also the places with the least likelihood of property redemption. Woods Cove's redemption rates are lowest in the core urban neighborhoods and inner ring suburbs, validating the concerns expressed in national literature that tax lien sales as a business model are not well suited for weaker housing markets.
- Neighborhoods with the lowest property redemption rates are also the areas of the County with high concentrations of people of color.
- Among properties on which tax lien certificates are sold, foreclosure and vacancy outcomes disproportionately affect communities with high concentrations of people of color and high poverty rates.
- Among properties on which tax lien certificates are sold, the percentage of vacant properties increases as the certificates age. The County should be concerned about the disposition of those properties because vacancies decrease property values, shrinking the County's tax base.
- Irresponsible property ownership, especially the more easily preventable offloading of distressed property, has been a major concern for VAPAC members and is the type of business practice that VAPAC warned about in its letter to County Executive FitzGerald in 2011.
- Woods Cove, LLC, has not demonstrated the commitment, capacity, and systems to deal with unredeemed properties that become abandoned in the more distressed communities in Cuyahoga County.
- Woods Cove's stated plans regarding rentals, land installment contracts, rehabs, cash sales, and demolitions/donations have not yet fully materialized, and certain of those plans have questionable merit in terms of benefit to homeowners, neighborhoods, and the County tax base.
- In September 2013, the County entered into a new 3-year contract with Woods Cove without conducting due diligence to investigate Woods Cove's commitment, capacity, and systems for property management operations in distressed housing markets.

## Tax Lien Sale Process

### A. Recent Process Changes

The Ohio Revised Code gives counties flexibility to negotiate the terms of any tax certificate sale that, in the Treasurer’s discretion, is appropriate or necessary. Cuyahoga County has taken advantage of this provision to negotiate various contract terms with certificate purchasers and to make a number of improvements to the tax certificate sale process in recent years.

Figure 34 outlines process concerns that were raised by VAPAC in 2011 and 2012, and changes that were implemented by the County in its tax lien sale process and contract. Many of these changes were included in the 2013 County Contract that the County executed with Woods Cove on September 9, 2013, which is attached to this report as Appendix C. The page number references in Figure 34 below are all references to Appendix C: 2013 County Contract.

As noted later in this report, while the changes listed in Figure 34 were well received by the County and community advocates, subsequent events and new information have shown some of these changes to be insufficient, suggesting the need for further reforms.

CONCERN	CHANGE IMPLEMENTED
Terms of sale inflexible, limiting the County’s options	Adopted negotiated sale instead of previous auction model
Negative impacts on neighborhoods because properties stuck in legal limbo	<ul style="list-style-type: none"> <li>● Length of lien changed from 6 years to 3 years (p. 5)</li> <li>● Standards for foreclosure process established (p. 11)</li> </ul>
Inappropriate properties included in sale	<ul style="list-style-type: none"> <li>● Vacant properties, condemned properties, and strategic properties removed from the sale</li> <li>● Cities allowed longer time to screen draft tax lien sale lists</li> <li>● CDCs allowed to recommend properties to be removed from the list</li> <li>● Properties valued under \$20,000 excluded from sale</li> <li>● Minimum delinquent taxes due amount raised from \$500 to \$1000 to be included in sale</li> <li>● List of excluded properties expanded to include, for example, properties subject to environmental liens (p. 2)</li> </ul>
Unreasonable attorney fees	Guidelines for attorney fees spelled out in contract, listing limits based on where in the process they were (p.8)
Properties that were abandoned after the tax	Establishment of process for expedited foreclosure of

lien sale slow to go through foreclosure leading to vandalism and likely demolition	documented vacant properties (p. 11)
Poor customer service to tax payers	<ul style="list-style-type: none"> <li>● Establishment of customer service standards, including response times to customers, local or toll free number, etc. (p. 7)</li> <li>● County monthly monitoring of payment plans and complaints</li> <li>● Requirement that notices to taxpayers be made through first class mail to both property address and tax mailing address (p. 7)</li> </ul>
Properties that went through foreclosure were not being maintained by tax lien buyer	Contract requires that tax lien buyer has demonstrated property preservation capacity to qualify to bid, specifies requirement to comply with local ordinances, allows for requirement of a bond to ensure compliance, and makes non-compliance a default on the contract (p. 10)
Tax lien buyers were not taking properties through foreclosure	Contract requires that properties be taken through foreclosure or the lien is voided. (p. 11)
Non-payment of taxes by tax lien buyers	Requirement that to participate in tax lien sales, they must owe no delinquent taxes (p. 15)
Unwillingness of tax lien buyers to cooperate with land banks and municipalities who wanted to acquire tax liens	<ul style="list-style-type: none"> <li>● Establishment of procedures for re-purchase of tax liens (p. 8)</li> <li>● Addition of dispute resolution clause (p. 9)</li> </ul>
Negative business practices of previous tax lien buyers	<ul style="list-style-type: none"> <li>● Upfront screening of tax lien buyers (agreed to but not implemented)</li> <li>● Clause added regarding non-assignment of tax liens (p. 10)</li> <li>● Clause added regarding representations, warranties, and covenants of the buyer (p. 15)</li> </ul>

Figure 34: Concerns raised about tax lien sales and changes agreed to by County. Source: VAPAC

## B. Key Terms in the 2013 County Contract

Certain provisions of the 2013 County Contract are particularly relevant to the issues addressed in this study.

First, the 2013 County Contract was structured as an 18-month agreement with Woods Cove, with an option for the County to extend the certificate purchase period by 18 months.<sup>53</sup>

Second, the 2013 County Contract provides that tax certificates expire after 3 years, which means that the tax certificate purchaser has only 3 years either to collect the taxes owed and obtain a redemption from the homeowner or to foreclose, before the lien ceases to encumber the property. This forces the purchaser to take action on the parcel fairly quickly, minimizing the potential for a parcel to linger for years in an unproductive and tax-delinquent state. In some prior contracts executed by Cuyahoga County, certificates remained in effect for 6 years. If the purchaser wound down operations during the 6-year period, but left the lien on the property, this created a blemished title and hindered return to productive use. At the same time, the current 3-year time limit may have a negative impact on property owners, who might not be able to redeem in 3 years, but might have the ability to catch up on both delinquent and current taxes under a longer plan, without facing bankruptcy as their sole alternative.

Third, an important provision in the 2013 County Contract is the incorporation of a tiered system for legal fees. Previously, the tax certificate purchaser could assess the entire amount of legal costs upon foreclosure filing, based on an Ohio Revised Code provision that authorizes \$2,500 in legal fees upon the initiation of foreclosure. This provision greatly penalized many taxpayers who paid off their delinquency shortly after receiving a foreclosure notice, when the entire \$2,500 had been assessed and added to their bill, but few legal fees had actually been incurred. The County endeavored to eliminate this inequity by requiring that legal fees be assessed over a phased time-period, as legal costs are actually incurred.

Fourth, an additional important provision in the 2013 County Contract is that after purchasing an initial tax lien on a parcel, the tax certificate purchaser is obligated to purchase any subsequent delinquent tax liens that arise on that parcel. This ensures that the County will receive property taxes on those parcels that continue to stay delinquent, that the liens on the title are held by a single entity, and that a taxpayer who wishes to redeem pays only one party.

Fifth, the contract provides that the tax lien purchaser can put the taxpayer into a payment plan before or during foreclosure and will not “file a Foreclosure Notice” so long as payments are current. While this is a positive step, it does not go far enough because it fails to halt the

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<sup>53</sup> VAPAC members were surprised to learn that the County had extended the contract from the one-year contract that existed prior to 2013 to what could become a three-year agreement for Woods Cove to be the exclusive buyer of tax liens. This is troubling because, although VAPAC’s recommendation for greater vetting and due diligence investigation of tax lien buyers was partially acted upon, the County did not perform due diligence regarding Woods Cove’s commitment, capacity, and systems for responsible management of distressed properties, and municipalities are now learning of problems with Woods Cove’s property management practices. A responsible and thorough investigation of Woods Cove’s investments in other communities might have surfaced this issue in advance.

foreclosure process even if a borrower's payments are current. The Legal Aid Society of Cleveland has documented at least one case in which Woods Cove filed a foreclosure action and then entered into a payment plan with the taxpayer, but failed to notify the Court of the payment plan and instead continued to proceed forward with the foreclosure process, in violation of the Court's Standing Case Management Directive for Foreclosure Actions.<sup>54</sup>

Sixth, the contract requires the purchaser to notify each taxpayer that a lien is outstanding and provide redemption instructions within 60 days following the closing date and every 90 days thereafter. Redemptions may be paid at the office of the Treasurer or the office of the purchaser.

Seventh, certain customer service requirements have been added. The purchaser is required to maintain an office in Cuyahoga County and provide live phone lines, and every inquiry must be responded to within seven business days. Throughout the contract term, the purchaser must provide the Treasurer with monthly reports that include the number of certificates redeemed, number of payment plans, number of foreclosures, and any other information as reasonably requested by the County.

Eighth, the purchaser can file a foreclosure notice after one year from the date the tax certificate was purchased.

Ninth, at any time subsequent to the closing date, the County can determine that a tax certificate is void and reverse the sale of the tax certificate. If the property is condemned within 24 months after the sale by the city in which it is located, the purchaser can ask the County to void the certificate. This is a significant concern for many housing advocates because it allows the purchaser to shift the burden and demolition costs of condemned properties back to municipalities.

Tenth, upon transfer of a parcel that is abandoned property<sup>55</sup> to a tax lien purchaser, the purchaser "shall diligently comply" with all applicable laws of the jurisdiction. If the purchaser is notified that a property has not been adequately maintained, the purchaser must bring the property into compliance within 30 days. However, growing concerns over Woods Cove's management of property suggest that these requirements are not sufficiently strong to ensure adequate property maintenance.

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<sup>54</sup> The Legal Aid Society of Cleveland, Letter to County Executive and County Inspector General (Jan. 23, 2015).

<sup>55</sup> R.C. 5721 adopts the R.C 323.65 definition of abandoned lands, which focuses on parcels and improvements that are unoccupied and/or unused at the time the applicable list of delinquent properties is compiled.

### C. Other Process Concerns

The Sheriff's Department has indicated that, in connection with tax lien certificate foreclosures, it will be implementing a three-month delay between requests for sheriff's sales and the setting of sale dates, because the department lacks the staffing to process the large numbers of sheriff's sales resulting from tax lien foreclosures. This is problematic with respect to vacant parcels because vacant tax lien parcels, unlike mortgage foreclosure parcels, cannot be maintained by the tax lien purchaser until that purchaser acquires title. Therefore, the longer these vacant parcels sit awaiting sale, the more likely they are to become a drain on municipal resources and continue to deteriorate and undermine neighborhood stability. This highlights a capacity issue at the Sheriff's Department that should be examined carefully by the County.

### D. Findings regarding Tax Lien Sale Process

- The improvements made by the County between 2011 and 2013 were essential and should be continued and further strengthened.
- The post-2010 collaboration between the County, municipalities, and NEO CANDO to "scrub" the potential list of delinquent parcels prior to each sale in order to remove vacant and condemned parcels was an improvement to the process, since tax lien sales are not the most appropriate tool for handling these properties. However, it is now clear that this sound practice is still not sufficient to prevent vacancies and abandonment in distressed neighborhoods.
- The exclusion from tax certificate sales of properties valued below \$20,000 is not sufficient to prevent vacancies in distressed neighborhoods. The minimum should be increased so that properties with values under \$50,000 are excluded from tax certificate sales.
- The contract may not sufficiently stop the certificate purchaser from proceeding with a foreclosure action even though a borrower is making timely payments on a payment plan.
- The property maintenance requirements in the 2013 County Contract are not sufficiently strong.
- The lack of a communication plan between the County and municipalities regarding the tax lien certificate process has resulted in the under-utilization or non-implementation of certain beneficial contract provisions in the 2013 County Contract.

## Alternatives to Tax Lien Sales

Underlying this study is a fundamental dilemma confronting Cuyahoga County. The County needs cash flow from property tax revenue to meet critical needs for schools, police, fire, and social services. Tax lien sales provide that cash flow, but the tax lien sale business model may have unintended consequences in economically distressed and vulnerable parts of the County, further undermining weaker housing markets.

A viable alternative to the sale of tax liens exists: instead of selling tax lien certificates, the County could issue Delinquent Tax Anticipation Notes (DTANs). Not only has this approach been used in Michigan for decades, as described below, but Cuyahoga County itself successfully utilized DTANS to raise \$20 million in 2009 and \$15 million in 2010.<sup>56</sup> Exploring the feasibility of using DTANs to recoup delinquent tax revenue should be a top priority for County Council and the County Executive. As part of that evaluation, the County should explore how use of DTANs as an alternative to tax lien sales could benefit neighborhood stability and strengthen the property tax base long-term.

### The Michigan Model

Michigan, a state similar to Ohio in terms of economy and housing market, has for decades enabled its taxing districts to generate revenue by borrowing against the taxes owed as a receivable.

Instead of selling the tax debt to private investors such as Woods Cove, the taxing authority issues Delinquent Tax Anticipation Notes (DTANs) and borrows funds from financial institutions, using future tax collection as collateral. This solves the short-term cash flow problem that tax lien sales are usually intended to address, while allowing the county to retain greater control over the collection process, and, when necessary, the disposition of foreclosed property.

In a recent visit to Cuyahoga County, U.S. Congressman Dan Kildee (Mich.), a former Michigan county treasurer, outlined for VAPAC and Cuyahoga County officials how this process has generated revenue for Michigan counties, without the negative outcomes associated with the sale of tax liens.

During his visit to Cleveland on October 27, 2014, Congressman Kildee acknowledged the rationale for tax lien sales: governments require cash flow to operate, and taxes that are due

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<sup>56</sup> Information provided by Cuyahoga County Prosecutor's Office. R.C. 133.082 authorizes Ohio counties to issue securities in anticipation of the collection of current, unpaid taxes.

but not yet collected provide no revenue. Selling the tax liens converts the uncollected receivables to cash, but tax lien sales may come at other costs for the County and its citizens.

The alternative method for generating cash flow employed in Michigan operates as follows:

- The local taxing authority, in this case the County, offers a short term note called a “Delinquent Tax Anticipation Note” (“DTAN”). A sample DTAN issuance in the amount of \$46,350,000 from Genesee County Michigan is attached here as Appendix D: “General Obligation Limited Tax Notes, Series 2010.”
- Banks or investment firms submit bids to be selected as the lender and are chosen based on interest rate and other terms offered to the County.
- The funds loaned pursuant to the DTAN are secured by real property taxes due and payable and backed by the County’s inherent lien interest – generally the senior priority lien in any state lien hierarchy.
- When properly structured, the bank or investment firm is investing in the equivalent of a tax-exempt municipal debt, i.e., the interest paid by the County to the bank or investment firm is excludable from the gross income of the note holders for federal income tax purposes.
- In consideration of this tax-free benefit, bidders are induced to provide the loan to the County at a relatively low interest rate. It is not unusual for issued DTANs to bear interest at rates less than 2%, while the liens are often collected by the County at a substantially higher rate. Thus the issuance of the DTANs not only enables the County to have the same upfront revenue it would obtain from the sale of tax liens, but it also enables the County to generate additional earnings that exceed the cost of repayment of the DTANs.
- As an example, Congressman Kildee said that Genesee County typically borrowed at a 1% interest rate and collected delinquent taxes from homeowners at a 16% interest rate. In addition, he reported that Genesee County experienced a 97% or better redemption rate, as follows: if Genesee County started out with 35,000 delinquent parcels, they might end up having to foreclose on 10,000 to 11,000, and ultimately have 1,000 to 1,500 that were not redeemed. These would be properties the County would take into its inventory via its county land bank. That level of redemption, combined with the 1% to 16% differential between cost and revenue, provided Genesee County with a \$5-7 million surplus on a \$45-50 million DTAN. This surplus enabled the County to cover the cost of operating and servicing the program.
- The County is in a position to control the risk of the transaction by determining the size of the DTAN and by its assessment of the likely collections.

- Since the tax liens are not sold, they are retained by the County. In the case of foreclosed property that has value, that value accrues to the County, not to a private lien purchaser.
- In the case of low value properties that require foreclosure and are likely to transfer to the foreclosing party due to lack of bidders at sheriff's sale, those properties remain in the control of the County rather than a private lien purchaser, enabling the County to dispose of them to land banks, municipalities, or other beneficial owners, minimizing the number of parcels that end up in a repetitive cycle of distress. In other words, because the County retains the lien rather than selling it to an investor, it is the County that initiates the foreclosure case and is likely to receive title, and the County is then in a position to steer a distressed or low value property to a local land bank.
- The County continues to service the liens and collect payments. Genesee County elects to subcontract the servicing function to a tax collection service. While this may appear similar to selling the tax liens and letting the tax lien purchaser conduct collection, there is one significant difference. Because the County retains control of the lien, it has complete control over all methods of collection. And, because the collection is legally still being done by a governmental body, the highest standards of constitutional due process and public records transparency are in place. Congressman Kildee noted that the servicing used in Genesee County provided a high degree of notice to taxpayers, including regular mail, certified mail, personal visits (\$10-\$20 per visit), and posting notices on the property. In Michigan, a \$175 filing fee per foreclosure is more than enough to cover the total costs through the point of foreclosure.
- In addition, the surplus revenue derived from positive arbitrage on the collection process—even after accounting for uncollected taxes as an offset—is a significant number that Genesee County used for land bank operations, maintenance, and redevelopment support for properties.

In a 2012 article published in the Emory University Law Journal,<sup>57</sup> Michelle Z. Marchiony reviews the practice of selling tax liens and addresses the Michigan alternative. In her Conclusion section, she states:

*“This Comment argues that a rational financial analysis should accompany a local government’s selection of a strategy for addressing property tax revenue shortfalls, and that the widespread use of tax lien sales without such an analysis is irresponsible and potentially costly. One of a local government’s most important roles is to squeeze the*

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<sup>57</sup> Michelle Z. Marchiony, “Making Debt Pay: Examining The Use Of Property Tax Delinquency As A Revenue Source,” Emory Univ. Law Journal, Vol. 62:217 (2012), available at <http://law.emory.edu/elj/content/volume-62/issue-1/comments/making-debt-pay.html>.

*most benefit it can from limited resources and balance current and future revenue needs. However, local governments appear to be rejecting a proactive approach to public finance in favor of a reactive approach to quickly obtain access to funds.*

*The opacity and complexity of property tax lien sale costs impede public accountability. This Comment argues that the practice creates several additional unnecessary risks, including community externalities, reduced rates of return on property taxes, and diminished consumer and constitutional protections. These risks can have a serious impact on the fiscal health of the municipality and taking such a gamble is imprudent. While methods other than tax lien sales are not certain to reduce tax delinquency or provide a greater rate of return, there are very good reasons to believe that they will. As a result, local governments should consider exchanging tax lien sales for DTANs—and at a minimum, they should institute additional controls over costs and community outcomes of tax enforcement.”*

The Cuyahoga County Prosecutor’s Office has provided a brief outline of DTANs in Ohio, which is included in Appendix E. Although Cuyahoga County can issue DTANS, and in fact already has, it is beyond the scope of this report to determine whether all of the required authority to duplicate the Michigan model exists under current Ohio law and current county ordinances. However, if Cuyahoga County could use this same method to generate much needed revenue for schools and other civic needs, and could successfully repay the DTANs as Michigan does, then this could provide a viable alternative to tax lien sales.

### Findings regarding Alternatives to Tax Lien Sales

- The issuance of Delinquent Tax Anticipation Notes may be a practice that satisfies the County’s need to collect delinquent property tax revenue while avoiding the negative outcomes associated with tax lien sales in weaker housing markets.

## Recommendations

### A. Increase Tax Collection

Crucial to minimizing any adverse impacts of tax lien sales is to reduce the need for tax lien sales in the first place. This can be accomplished by increasing tax collections overall. The County should consider utilizing the following specific actions to increase collection of delinquent taxes.

- 1. Restore County Treasury staffing and increase the Prosecutor’s capacity to handle judicial tax foreclosure cases.** As noted earlier, during the 2011-2014 administration, Cuyahoga County substantially dismantled its own internal tax collection capacity. Treasury staff has been cut by more than half and the unit that was dedicated solely to taxpayer customer service was discontinued altogether. When housing advocates asked the County to increase County prosecution of BOR cases against abandoned property, they did not ask the County to cut back on judicial tax foreclosure to make that possible. It has recently come to light that the shifting of prosecutorial resources was done due to staffing limitations, at the expense of reducing one of the County’s key tools for tax collection. The failure to maintain these capacities in recent years jeopardizes the fiscal health of the county and its municipalities and has likely been responsible for a decreased internal tax collection process, putting the County in the difficult position of relying on selling public debt to private parties. As we have documented throughout this report, the sale of tax liens to private investors – turning over a public government function to private investors – has unintended harmful consequences for Cuyahoga communities. The County should take the following steps to restore its own internal capacity to collect property tax:

  - Restore County Treasury staffing, especially for taxpayer customer service and promotion of payment plans, direct collection, and redemption.
  - Increase the staff capacity of the County Prosecutor’s Office to enable them a restoration of judicial tax foreclosure filing capacity back to 2009 levels. The County Prosecutor’s Office should not have to choose between prosecuting abandoned property cases and tax collection cases. Both are critically important to the health of the County and its municipalities.
  
- 2. Reconvene the Delinquent Tax Collection Task Force.** This group would be charged with identifying ways in which the County could increase delinquent tax collection. The group should investigate the potential of implementing the recommendations in this report. VAPAC is willing to convene a working group focused on improving the tax collection process, and VAPAC members are willing to serve on any County facilitated working groups related to tax collection policies and procedures.
  
- 3. Create a tax foreclosure prevention department.** Fund additional staff to proactively reach out to delinquent taxpayers to encourage the use of payment plans and ensure that the taxpayer has a clear understanding of the adverse outcomes of remaining tax

delinquent. In Genesee County, Michigan, one case manager handled 1300 open cases at any time and had a 93% success rate.<sup>58</sup>

4. **Use a third party collection agency.** Although it is essential to increase internal tax collection capacity, the County could augment these efforts and reduce the additional internal staff needed by retaining the services of a private, third-party, municipal tax collection service. This aggressive collection approach could significantly reduce the need for tax lien sales through more robust tax collection.
  
5. **Revise delinquent taxpayer correspondence.** Examine existing correspondence and revise to make it easier to understand and more clear about potential outcomes of continued non-payment of taxes. The letter or notice should clearly state the amount of taxes owed or in arrears, the amount of interest and how it will be calculated, the amount of the administrative fees and costs, and how and when they will be applied. In Great Britain, simply modifying language in a delinquent tax letter to include information that the great majority of people in the local area had paid on time raised the repayment rate from 33.6% to 38.6%, bringing in an additional \$210 million of tax revenue.<sup>59</sup> Another test showed that by directing delinquent taxpayers directly to the form to make payment online rather than just the tax payment website increased the response rate from 19.2% to 23%.<sup>60</sup>
  
6. **Maximize the use of payment plans.** Maximize the length of time and terms that can be utilized, up to the maximum allowable under the Revised Code, based on individual taxpayer circumstances. Currently only 14% of delinquent parcels have a payment plan. Every effort should be made to increase the number of delinquent taxpayers on payment plans. A consistent set of hardship verification criteria should also be developed to ensure that the program is not being exploited. The Michigan exemption criteria<sup>61</sup> may provide a model. The goal would be to provide genuine relief for true hardship and minimize abuses of the system. Use case-by-case flexibility to resolve delinquent taxes before they become uncollectible.

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<sup>58</sup> Presentation by Congressman Dan Kildee on October 27, 2014.

<sup>59</sup> The Behavioural Insights Team, available at [http://www.behaviouralinsights.co.uk/sites/default/files/BIT%20Publication%20EAST\\_FA\\_WEB.pdf](http://www.behaviouralinsights.co.uk/sites/default/files/BIT%20Publication%20EAST_FA_WEB.pdf).

<sup>60</sup> Ibid.

<sup>61</sup> Michigan criteria available at [http://michigan.gov/documents/treasury/STCBulletin5of2012\\_388855\\_7.pdf](http://michigan.gov/documents/treasury/STCBulletin5of2012_388855_7.pdf).

7. **Fund non-profit counseling agencies to work with taxpayers on payment plans.** For those who have defaulted on one payment plan, require participation in a subsequent payment plan to include working with a HUD-approved, non-profit counseling agency to ensure better compliance.
8. **Collaborate with non-profit social service agencies to provide assistance to delinquent taxpayers who are seniors, disabled, or veterans.** For example, in Franklin County, seniors who are tax delinquent are connected with social service agencies like Meals on Wheels and providers of prescription drug discounts to help them regain their financial footing.<sup>62</sup>
9. **Promote the use of installment plans for taxpayers who do not have a mortgage escrow account.** The County currently offers the EasyPay Program, which provides a means for taxpayers to pay their property taxes in installments. The number and amount of the payments is determined by the point in the tax collection cycle when the program is first utilized by the taxpayer. While utilization is fairly robust, the County should proactively promote and market the Easy Pay program to taxpayers to increase utilization.
10. **Engage municipalities and local community development corporations (“CDCs”) in efforts to prevent tax delinquency.** Promote and share best practices and encourage municipal partners to increase their efforts to prevent tax delinquency. Letters from mayors and CDCs to delinquent taxpayers can help reduce levels of delinquency without additional County resources being expended. Bellaire Puritas Development Corporation in Cleveland and the City of South Euclid sent approved letters to delinquent homeowners explaining the consequences of the tax lien sale and urged homeowners to set up a payment plan with the County Treasurer. This proactive step resulted in an influx of calls to the Fiscal Office to inquire about payment options.
11. **Improve publicity for existing tax abatement/reduction programs for vulnerable populations,** including the Homestead Exemption that reduces the property tax burden for those who are senior citizens or permanently disabled, the Homestead Exemption for combat-disabled veterans, and the 2.5% owner-occupancy credit. Ensure that these programs are widely known by qualifying taxpayers and are easy to access. Work with

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<sup>62</sup> “Innovation Found in the Treasurer’s Office,” New York Times (Nov. 4, 2014), available at <http://www.nytimes.com/2014/11/04/business/state-and-local-treasurers-use-money-skills-to-aid-lower-income-residents.html?smid=nytcore-iphone-share&smprod=nytcore-iphone>.

social service agencies to promote their use, and create a communications plan for reaching out to vulnerable groups.

## B. Improve Tax Lien Sale Practices

While tax lien sales are not inherently good or bad, certain risks are associated with them – for both the County and the tax lien purchaser – when implemented in weaker real estate markets. Our analysis suggests that redemption rates in Cuyahoga County are particularly low, especially in the City of Cleveland and the east side inner ring suburbs. In addition, although our data does not indicate how foreclosure and vacancy numbers would change if liens were retained by the County, the data do show that tax lien sales can result in large numbers of foreclosures and vacancies, further destabilizing distressed neighborhoods. We strongly recommend that the County consider alternative approaches to tax lien sales. However, at minimum, if sales are to continue, there are several generally agreed upon best practices to maximize the benefits and minimize the negative impacts of tax lien sales.

- 1. Exclude properties that are not well suited to the tax lien sale process, and create a communication plan to ensure that municipalities and CDCs understand the criteria for exclusion and have adequate time to review the list prior to sale.** These include, for example, vacant and blighted properties, or properties where an expedited Board of Revision foreclosure will facilitate speedier return to the tax rolls. The County should continue its practice of removing vacant land and vacant structures from any proposed tax lien sale, removing properties deemed to be of strategic interest to municipalities and community development organizations, and carefully monitoring the results of previous sales to determine if additional data scrubs are warranted to remove inappropriate parcels.
- 2. Increase the threshold of excluded low value parcels to under \$50,000.** The current practice of excluding parcels valued at under \$10,000 or even \$20,000 does not go far enough in eliminating the parcels that are most likely to result in failure to redeem, foreclosure, and neighborhood blight. Increasing this threshold will help ensure that properties in the most vulnerable neighborhoods receive alternative collection strategies and extra assistance through non-profit housing counseling groups. Our analysis reveals that parcels in lower income neighborhoods have a higher likelihood of not being redeemed, which has the potential to create more vacancy and abandonment in those already distressed areas.
- 3. Exclude homeowners who belong to vulnerable groups: seniors, disabled people, and people in high-poverty neighborhoods.** The County has recently made the decision to

remove seniors and disabled persons who are receiving a Homestead Exemption from exposure to tax lien sales. This exclusion from tax lien sales should continue, and the County should consider excluding other vulnerable groups as well.

- 4. Limit and monitor fees that can be charged by the tax lien buyer so that they are not excessive compared to the original debt, and do not themselves become a barrier to repayment of the debt.** A frequent criticism levied against tax lien sales is that they add high attorney fees and other costs to the initial debt, making repayment difficult if not unfeasible. As part of this study, an analysis of the attorney fees on all the liens was conducted, and compared with the Revised Code-mandated limits and with an analysis by the County Prosecutor staff about what would constitute “reasonable” fees if the work had been carried out by County legal staff. The analysis of attorney’s fees charged by Woods Cove showed an average of \$1,539 per case for attorney’s fees. This is consistent with the \$1,600 - \$1,800 deemed reasonable by the Prosecutor’s Office and the limit of \$2,500 provided set forth in the Revised Code. Based on our analysis, there appears to be relatively good oversight on the part of the County and the court regarding these fees.
- 5. Clarify the tiered fee structure.** As part of the earlier changes made to the tax lien contract by the County in 2012, a tiered structure was put in place to link attorney fees to actual work done at each stage of the process. However, the language in the fee schedule related to this tier structure is confusing regarding the total cost schedule. The existing contract language should be modified as follows to make it clearer that the tiered fees are capped at \$2,250:

*ARTICLE V*

*Negotiated Rate For Private Attorney's Fees: Notwithstanding any more permissive provisions of the Ohio Revised Code, Purchaser may charge a Record Taxpayer upon redemption of a Tax Certificate or group of Tax Certificates for the same parcel pursued under a single notice and/or case filing, as and for attorney’s fees in accordance with the following non-cumulative schedule, unless otherwise authorized by court order:*

- 1. Upon issuance of a Foreclosure Notice until the filing of a foreclosure action, no more than \$1,000.00 in total, plus costs.*
- 2. Upon service of notice of the filing of an action in foreclosure for each Certificate Parcel and until the filing of a Dispositive Motion, no more than \$1,500.00 in total, plus costs.*

*3. Upon the filing of a Dispositive Motion and until the entry of a Decree of Foreclosure, no more than \$1,900.00 in total, plus costs.*

*4. Upon entry of a Decree of Foreclosure and until Confirmation of Sheriffs Sale or Forfeiture, no more than \$2,250.00 in total, plus costs.*

- 6. Require the tax lien purchaser to notify the taxpayer within 30 days following the closing date (date of tax certificate purchase), and every 30 days thereafter, to ensure that taxpayers are quickly and frequently alerted and know whom to contact regarding their tax lien.** Article II, Section 3.2, of the 2013 County Contract currently provides that the purchaser must notify the taxpayer within 60 days following the closing date and 90 days thereafter. Although Woods Cove states that their practice is to reach out to property owners immediately, it makes sense to alter the contract to ensure that every homeowner is notified in a timely and consistent manner. Given the possibility that a taxpayer will lose their property as a result of a tax lien sale, every effort should be taken to ensure that a taxpayer understands what is happening and is aware of all the possibilities available to them for redeeming the certificate and retaining their property.
- 7. Amend the current contract with Woods Cove to enable Woods Cove to offer payment plans extending up to six years. Include a similar provision in any future tax lien sale contract.** The Legal Aid Society of Cleveland reports that many of their clients would have a greater chance of paying off their tax liens if the time for payment was extended to six years.
- 8. Require lien purchasers to create an Indemnity Fund to compensate taxpayers who sustain losses or damages due to a defective lien sale or foreclosure.** In its January 23, 2015 letter to the County, The Legal Aid Society of Cleveland documented legal violations by Woods Cove that occurred during the foreclosure process. While the primary recommendation of the Study Committee is to halt or remedy such violations, an Indemnity Fund could compensate those homeowners who suffer financial damage as a result of any such legal violations.
- 9. Require the lien purchaser to utilize in-hand personal service when serving taxpayers with the initial summons for a tax lien foreclosure or, at a minimum, require that a notice of foreclosure is posted on the property.**
- 10. Monitor practices, complaints, and property management of tax lien buyers.** The County currently keeps a registry of complaints and works with the tax lien buyer to

address them. In addition, there should be a consistent attempt to communicate with municipalities regarding the condition of properties and neighborhood outcomes.

- 11. Vet tax lien buyers carefully, since they are in effect partners with the government in the enterprise of tax collection.** Although the County agreed to vet these purchasers, this practice has not been fully implemented. Some due diligence was conducted prior to the County's entering into the 2013 County Contract with Woods Cove, but there was no due diligence investigation of Woods Cove's property management capacity and practices. In the Cuyahoga County housing market, it is essential that a tax lien buyer's capacity to manage a large portfolio of distressed properties be evaluated. Recommendations for improving property management practices are included in the following section.

### C. Improving Property Management and Disposal Practices

Tax Lien buyers have the potential to be large holders of vacant and distressed parcels in Cuyahoga County and, as partners with the County, must be held to a high standard of accountability in terms of the maintenance and disposal of these parcels. Information on property condition, the resolution of maintenance concerns, the demolition of unsalvageable parcels, and the responsible disposition of saleable parcels is of paramount concern, so that neighborhoods are not further harmed by this alternative method of tax collection. Capacity to enforce and prosecute noncompliance of property maintenance codes varies widely by community. The County as party to the tax lien contract can and should assist municipalities in obtaining the highest and best neighborhood outcomes.

- 1. Revise Article VIII, Sections B-F, of the 2013 County Contract.** Those sections govern the forfeiture process, which is the period in which the tax lien buyer takes legal ownership of the property. With respect to maintenance of parcels the purchaser has acquired through forfeiture, Sections B and C require the tax lien purchaser to follow all local laws pertaining to maintenance and address any concerns within 30 days. Sections D and E further require the tax lien purchaser to post a bond to cover maintenance or demolition in cases where the County determines it is warranted. Although these are good protections for neighborhoods, there appears to be a disconnect between what the contract states and how it is actually executed, as cities with distressed tax lien parcels are not taking advantage of these contractual remedies. In order to utilize the contract to its full advantage to ensure the best possible neighborhood outcomes, there will need to be greater communication with municipalities and better oversight of the property condition of parcels. We recommend the following revisions to this section:

- a. **Change the language in Article VIII, Section B, to remove the term “Abandoned Parcel.”** This section currently states that only abandoned parcels that come under the ownership of the tax lien buyer must comply with local requirements. This should apply to all parcels that come under their ownership.
  
- b. **Require the purchaser to file monthly property condition reports that include photographs of all sides of the property and appurtenant structures.** This will alert the County to the need for requiring a bond and will provide a baseline for assessing the condition of the property and over time serve as a basis for determining the tax lien purchaser’s success at property preservation. Currently, little to no information on property condition is being provided to the County. Properties are not being physically monitored by County staff, yet the County is the entity that must address maintenance issues with the tax lien purchaser. Requiring regular reporting of property condition, including photographs, would help the County decide if a bond is warranted or if the tax lien purchaser is in breach of the contract. This is typically the standard that bank owners require of the field servicers of their REO property. This would guarantee that properties are being visited and inspected on a monthly basis.
  
- c. **Require the tax lien purchaser to acquire property maintenance citation information from municipalities.** Section C specifies that the seller, presumably the County, shall notify the purchaser in writing of the purchasers’ failure to maintain a transferred certificate parcel owned by the purchaser in accordance with local requirements. This implies that the County would have the responsibility of notifying the tax lien purchaser of any property maintenance violations. Not only is this information unlikely to be communicated to cities, using the County as a conduit for conveying this information is impractical and unlikely to be productive. A tax lien purchaser should be required to reach out to cities to procure property maintenance citation information and to take action to cure violations and follow all local requirements, including vacant building registrations and point-of-sale requirements. The tax lien purchaser should be required to report this information to the County as part of the contract.
  
- d. **Require the tax lien purchaser to report violation correction information to the County.**
  
- e. **Require the tax lien purchaser to post a bond upon entering into the lien purchase agreement, to insure costs of demolition and nuisance abatement.** Section D

requires the posting of a bond in an amount determined by the County to correct maintenance concerns, in cases where the purchaser fails to comply with Sections B and C and does not maintain the parcel to the standards specified in the contract. However, given the negative experiences municipalities had with the prior tax lien purchaser, Aeon Financial, and the recent frustration municipalities are having over the condition of vacant Woods Cove properties, the County should require any future tax lien purchaser to post a bond in an amount calculated to insure that the remediation of nuisance conditions will not become a burden on local municipalities. At minimum, the calculation should be based on a potential \$10,000-per-home demolition cost for a percentage of the vacant homes likely to be acquired.

- f. **Require the tax lien purchaser to consent, upon entering into the lien purchase agreement, to any interior inspection that may be requested by a municipality for a property that comes into its inventory.** It is now clear that even with the best efforts of housing advocates and County officials to filter out vacant properties before a tax lien sale, the process of debt collection and foreclosure by the tax certificate purchaser will still result in a significant number of abandoned homes in Cuyahoga County municipalities. As of January 5, 2015, Woods Cove had 265 vacant homes in its inventory, even though it had only been filing foreclosures in Cuyahoga County for about one year. This number is certain to increase. Cuyahoga municipalities should not be burdened with having to go to court to seek a search warrant to inspect these properties. This should be an expected practice of cooperation from the tax lien purchaser.
  - g. **Require the tax lien purchaser to notify municipality upon filing of foreclosure and provide documentation of communication.** Section F specifies that prior to filing a notice to foreclose on an abandoned property, the purchaser shall confer with a representative of the jurisdiction in which the parcel is located. This contract provision should be upheld to hold the lien purchaser, rather than a municipality, accountable by forcing the purchaser to show the details of the communication, rather than simply stating, “we notified the city.” A requirement should be added that the County be provided with documentation as to when the notification occurred, the name of the staff member at the municipality who was contacted, and the outcome of that communication.
2. **Require tax lien purchaser to establish communication plan between tax lien purchaser, the County, and municipalities.** The “eyes on the ground” view of municipalities and community development corporations could provide valuable

information about changes in occupancy and property condition, which could lead to an escalation of the foreclosure process should the property become vacant or damaged. A secure, web-based data portal could be created to share parcel information between the three entities.

3. **Continue to monitor and evaluate tax lien purchasers' portfolio for financial impact, community impact, and impact on vulnerable communities.** If tax lien sales continue in Cuyahoga County, it is imperative that the results of each sale be subjected to ongoing monitoring and evaluation, similar to the analysis in this report. This must include a full assessment of property condition, outcomes for each sale parcel, and adherence to contract terms. A long-term analysis of the results of the disposition of these parcels, including current and future tax delinquency status will be helpful in determining needed process changes that will preserve and protect neighborhoods and enhance tax collections overall. The County may consider contracting for the services of NEO CANDO or Cleveland Neighborhood Progress to monitor the outcomes of these parcels over time to determine trends and identify areas where the process should be further modified.
4. **Prohibit unfair or unconscionable terms in payment plans and land installment contracts between the tax lien purchaser and homeowners.** Unfair payment plan and land installment contract provisions could have the unwanted effect of appearing to be sanctioned and approved by the County. Clauses that require homeowners to waive legal defenses, agree to arbitration, or give up other legal rights, are not appropriate on property tax debts. Tax lien purchasers should not be permitted to foreclose on distressed properties, then "flip" them back to the original homeowner for many times the original debt, using coercive land installment contract terms.
5. **Stop allowing the Tax Lien purchaser to void liens in cases where properties are condemned prior to the filing of a foreclosure action.** The tax lien purchaser should have accountability for the abatement of properties that become municipal nuisances during the time of their contract. This should help ensure that adequate diligence is performed on the part of the tax lien buyer to assess the portfolio prior to purchasing the liens.
6. **The Sheriff's Department should consolidate tax lien foreclosures on vacant parcels and process them in a separate, specific sale, just for that class of parcels.** This should eliminate the backlog and the current three-month delay in processing foreclosure filings.

#### D. Explore the Feasibility of Alternatives to Tax Lien Sales

- 1. The County should establish a committee with authority and resources to study the feasibility of implementing the Michigan tax lien sale alternative in Ohio.** The committee should conduct a thorough exploration of the Michigan alternative to tax lien sales, and determine what legislative changes, if any, would be required to make the model work in Cuyahoga County. At minimum, this should include arranging for Michigan Congressman Dan Kildee, and others he identifies, to spend time in Cuyahoga County to meet with local officials to explain the model and discuss its application in Ohio.
- 2. The County should establish a committee with authority and resources to study the feasibility of other tax lien sale alternatives, such as the use of third-party collection agencies to service County-owned tax liens.** Potential alternatives should be carefully examined and vetted to ensure that they benefit all impacted parties, including the County, municipalities, and vulnerable and distressed communities.

## Appendices

Appendix A: Letter – Legal Aid Society of Cleveland

Appendix B: Letter – Davenport Financial

Appendix C: Contract – Woods Cove 2013

Appendix D: Michigan – sample DTAN

Appendix E: Ohio – DTAN overview



*The*  
**Legal Aid Society**  
 of Cleveland  
*Since 1905*

January 23, 2015

Armond Budish, Cuyahoga County Executive  
 Cuyahoga County Administrative Headquarters  
 2079 East Ninth Street  
 Cleveland, OH 44115

Nailah K. Byrd, Inspector General  
 Cuyahoga County Agency of the Inspector General  
 Cuyahoga County Administrative Headquarters  
 2079 East 9th Street, 6th Floor  
 Cleveland, OH 44115

Dear Mr. Budish and Ms. Byrd:

Our office is writing to express concerns about the practices of Woods Cove, LLC (“Woods Cove”) and Lien Servicing, LLC (“Lien Servicing”), the entities currently under contract with Cuyahoga County to buy, service, and foreclose upon delinquent property tax liens. Since November 2011, Cuyahoga County has sold over \$54 million in property tax liens to Woods Cove, with Lien Servicing as the servicer of those accounts, and such sales continue to be conducted periodically.

Please note that although Lien Servicing changed its name in June 2014 and is now registered with the Ohio Secretary of State as Davenport Financial, LLC, we refer to it throughout this letter as “Lien Servicing.”

The Legal Aid Society of Cleveland represents homeowners whose tax liens have been purchased, serviced, and/or foreclosed upon by Woods Cove and Lien Servicing, and in that capacity, Legal Aid has become aware of practices by these entities that appear to violate their contract with Cuyahoga County as well as Ohio law.

Legal Aid requests that your office investigate the following four areas of concern:

(1) Woods Cove’s and Lien Servicing’s failure to comply with the Tax Certificate Sale/Purchase Agreement they executed with Cuyahoga County effective Sept. 9, 2013 (“Tax Sale Agreement”), and their failure to comply with the Ohio Revised Code, by charging interest on unpaid tax payment plans in excess of the 17.75% per annum simple interest rate permitted by R.C. 5721.41.

(2) Woods Cove’s and Lien Servicing’s practice of initiating or proceeding with

**Julie K. Robic**  
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 julie.robic@lasclev.org

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 or  
 216.687.1900

**General Business:**

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 or  
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**Cleveland  
 & Administrative Offices**

1223 West Sixth Street  
 Cleveland, OH 44113

General Business: 216.861.5500  
 Fax: 216.586.3220

**Elyria Office**

1530 West River Road North  
 Suite 301  
 Elyria, OH 44035

General Business: 440.324.1121  
 Fax: 440.324.1179

**Jefferson Office**

121 East Walnut Street  
 Jefferson, OH 44047

General Business: 440.576.8120  
 Fax: 440.576.3021

**Painesville Office**

8 North State Street  
 Suite 300  
 Painesville, OH 44077

General Business: 440.352.6200  
 Fax: 440.352.0015

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court foreclosure actions in violation of the terms of Woods Cove's settlement agreements with homeowners, as well as in violation of a Standing Case Management Directive of the Cuyahoga County Common Pleas Court and the Tax Sale Agreement at paragraph 3.1.

- (3) Lien Servicing's practice of sending letters to homeowners in tax foreclosure cases:
  - (a) that fail to disclose its mailing address;
  - (b) that are signed by officers purportedly on behalf of Woods Cove, but that fail to identify Lien Servicing's relationship with Woods Cove and the scope of its authority;
  - (c) that make material misrepresentations concerning homeowners' legal rights and obligations; and
  - (d) that violate a Standing Case Management Directive of the Cuyahoga County Common Pleas Court and the Tax Sale Agreement at paragraph 3.1.
- (4) Woods Cove's practice of requiring homeowners to give up certain legal rights as a condition of settling their foreclosure actions through a payment plan.

We provide the following information regarding each of these four issues:

**(1) Interest rates on tax payment plans.**

Based upon our review of several homeowners' settlement agreements and payment plans with Woods Cove, it appears that Woods Cove is improperly charging homeowners a fixed monthly interest amount that exceeds the limits set by the Tax Sale Agreement and the Ohio Revised Code.

The Tax Sale Agreement defines the "tax certificate rate of interest" as "17.75% per annum calculated as simple interest<sup>1</sup> in accordance with R.C. 5721.41."<sup>2</sup> In turn, R.C. 5721.41 states that "interest charged shall equal one-twelfth of the annual interest rate multiplied by the principal amount [and] [i]nterest charges . . . shall accrue on a monthly basis, on the first day of the month following the beginning of the period during which interest accrues and on the first day of each subsequent month."

According to this statutory requirement, Woods Cove should be calculating interest charges—1/12 of the 17.75% annual interest rate multiplied by the remaining tax balance—on a monthly basis. As the remaining unpaid tax balance decreases every month, so too should the amount of the interest charged. Woods Cove should **not** be charging homeowners a fixed monthly interest amount, but that is precisely what Woods Cove is doing, with the result that Woods Cove's actual interest rates far exceed 17.75%.

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<sup>1</sup> There is "only one way to calculate" simple interest—it is "calculated by applying a periodic interest rate to the outstanding balance of the unpaid principal every repayment period for the term of the loan." National Consumer Law Center, *Consumer Credit Regulation* (1<sup>st</sup> ed. 2012 & Supp. 2013), § 5.3.1.1.

<sup>2</sup> The Tax Sale Agreement is available on the Cuyahoga County Treasurer's website at [https://treasurer.cuyahogacounty.us/pdf\\_treasurer/en-US/2013PurchaseAgreementb.pdf](https://treasurer.cuyahogacounty.us/pdf_treasurer/en-US/2013PurchaseAgreementb.pdf).

For example, in one recent case involving a principal balance of \$4,485.60 (see the Payment Schedule attached hereto as Exhibit 1), Woods Cove charged the homeowner twenty-four monthly payments of \$247.19.<sup>3</sup> Each payment included a fixed monthly interest amount of \$60.29, despite the monthly decrease in the overall principal balance of the debt. Woods Cove's approach resulted in an interest overcharge of \$558.13 and an effective interest rate of 28.43%, far higher than the 17.75% rate permitted by Ohio law.

In another case involving principal of \$3,306.50 (see the Payment Schedule attached hereto as Exhibit 2), Woods Cove charged the homeowner twenty-four monthly payments of \$181.73, each of which included a fixed monthly interest amount of \$43.96. This resulted in an interest overcharge of \$409.34 and an effective interest rate of 28.14%, again far higher than the legal rate.

There are several problems with these charges by Woods Cove. Not only do they violate the Tax Sale Agreement and the Ohio Revised Code, but as the examples above illustrate, Woods Cove's improper interest charges can cost homeowners hundreds of dollars they do not actually owe. Furthermore, the non-transparent nature of Woods Cove's calculations is problematic. In the payment plans our office has seen, it is not clear how Woods Cove selects the fixed monthly interest amount, nor is it clear that Woods Cove is applying the same interest calculation procedure in each case. The opaque nature of Woods Cove's interest rate calculations makes it difficult for homeowners—most of whom do not have legal counsel—to evaluate whether and by how much their payment plan charges exceed 17.75%. We ask the County to investigate the scope of this practice across Woods Cove's portfolio and to remedy this problem for all affected homeowners.

## **(2) Proceeding with foreclosure despite the existence of settlement agreements.**

Both the Tax Sale Agreement with the County and Woods Cove's payment plan agreements with homeowners prohibit Woods Cove from initiating or proceeding with foreclosure actions while a homeowner is current on a payment plan. Specifically, paragraph 3.1 of the Tax Sale Agreement provides that "[n]either the Purchaser [Woods Cove] nor the Servicer [Lien Servicing] shall file a Foreclosure Notice for any Tax Certificate while the Record Taxpayer is making timely payments in accordance with a Payment Plan and has not otherwise defaulted on such plan." Similarly, the payment plans state, "Woods Cove agrees that during the Forbearance Period [defined as the period during which payments are being timely made under the plan]... it will not exercise its right to enforce the Tax Lien by civil action and/or execution of a judgment in any court with jurisdiction, provided no Event of Default... has occurred."<sup>4</sup>

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<sup>3</sup> On the Payment Schedule attached hereto as Exhibit 1, the first monthly payment amount of \$247.19 is crossed out and replaced with the handwritten number "272." If this is correct and Woods Cove charged the homeowner a first monthly payment of \$272.00 and twenty-three monthly payments of \$247.19, then the effective interest rate is even higher—29.01%—which even further exceeds the legal rate of 17.75%.

<sup>4</sup> For an example of such payment plan language, see paragraph 3 of the Settlement Agreement attached to the Magistrate's Decision, which is attached hereto as Exhibit 4.

Despite this clear prohibition, it appears that in at least some cases, Woods Cove initiates or proceeds with foreclosure even when a homeowner's payments are current. Our office recently handled a case in which Woods Cove entered into a payment plan with a homeowner on March 7, 2014, and then proceeded on March 19, 2014 to file an Amended Complaint in a pending foreclosure action against that homeowner. A few weeks later, on April 11, 2014, Woods Cove filed a motion asking the Court for additional time to obtain service and file dispositive motions, despite the fact that the homeowner had already made a down payment of \$1,000.00 and a monthly payment of \$319.76 under the payment plan. Not only did Woods Cove proceed with the foreclosure action improperly, but it failed to notify the Court of the existence of the payment plan, in violation of the Cuyahoga Common Pleas Court's Standing Case Management Directive for Foreclosure Actions, which requires that "Plaintiff's counsel **shall** notify the court of any payment plan or Forbearance agreement... entered into on a pending case within seven days of said agreement. The court may dismiss the case without prejudice upon said notice..." (Cuyahoga Common Pleas Standing Case Management Directive for Foreclosure Actions, attached hereto as Exhibit 3, at paragraph 12).

As a result of our office's advocacy, the Court ultimately dismissed the foreclosure action, finding that the homeowner had by then made nine timely payments to Woods Cove and that the "Court's Standing Case Management Directive calls for dismissals, without prejudice, of foreclosure cases in which the parties have entered into a repayment plan." (Magistrate's Decision, attached hereto as Exhibit 4.)

While it is unclear how widespread this practice is, for Woods Cove to initiate or proceed with foreclosure despite timely payments by homeowners in even a few cases not only constitutes a violation of the Tax Sale Agreement, Woods Cove's own payment plan terms, and the Court's Standing Case Management Directive, but is also a serious deprivation of justice. Homeowners making timely payments to bring their property taxes current should not be dragged through legal proceedings and threatened with the loss of their homes. Especially given the shortage of legal assistance for homeowners in foreclosure, it is critical that the County investigate this violation of justice to ensure that homes are not wrongfully seized from homeowners whose tax payment plans are current.

### **(3) Misleading and deceptive letters in relation to foreclosure actions.**

It appears that Lien Servicing, LLC, the entity under contract with the County as "servicer" of Woods Cove's tax liens, has engaged in a practice of sending letters to homeowners in tax foreclosure cases:

- (a) that fail to disclose its mailing address or telephone number;
- (b) that are signed by representatives purportedly on behalf of Woods Cove, but that fail to identify Lien Servicing's relationship with Woods Cove and the scope of its authority;
- (c) that make material misrepresentations concerning homeowners' legal rights and obligations; and
- (d) that violate the Cuyahoga County Common Pleas Court's Standing Case Management Directive for Foreclosure Actions and the Tax Sale Agreement at paragraph 3.1.

In the foreclosure case our office handled that is described above, Lien Servicing sent a letter to the homeowner dated March 5, 2014, asking her to review, sign, and return an enclosed “Settlement Agreement” with a payment. (Letter from Lien Servicing, attached hereto as Exhibit 5.) The letter was signed by Matthew Morgan for Woods Cove II, but our office’s research indicated that Matthew Morgan was actually employed by Lien Servicing. The letter did not explain the role of Lien Servicing in relationship to the settlement agreement, which was between the homeowner and Woods Cove II. The letter also did not contain any contact information for Lien Servicing in the event that the homeowner had questions about the settlement agreement, despite the requirement in paragraph 3.4(A) of the Tax Sale Agreement that Lien Servicing make a local or toll-free, live phone line available for the purpose of receiving inquiries from Record Taxpayers.

In the same case, Lien Servicing sent a second letter to the homeowner, dated April 8, 2014, claiming that Lien Servicing—a non-party to her foreclosure case—was ordered by the Court to file a Consent Judgment Entry. (Letter from Lien Servicing, attached hereto as Exhibit 6.) However, a review of the Court’s docket for the case shows that there was no such order. The letter had the likelihood of inducing the homeowner, who was unrepresented by legal counsel at the time, to believe and act on this false statement to her detriment, despite the provision in paragraph 12 of the Court’s Standing Case Management Directive (attached hereto as Exhibit 3) that permits dismissal of foreclosure cases—not a judgment against the homeowner—when the parties have entered into a repayment plan. That egregious conduct was compounded by a phone call from a Woods Cove employee to the homeowner, during which the Woods Cove employee instructed the homeowner to disregard any court papers that she received and to continue to make payments to Woods Cove under her payment agreement with the company.<sup>5</sup> These material misrepresentations by Lien Servicing and Woods Cove concerning the homeowner’s legal rights and obligations could have caused substantial injury to this homeowner, and are likely to cause substantial injury to homeowners if repeated in other cases.

Furthermore, Lien Servicing’s threat of a Consent Judgment Entry while the homeowner’s settlement payments were current violated the payment plan itself and the Tax Sale Agreement at paragraph 3.1, which prohibit Woods Cove and Lien Servicing from filing a foreclosure notice or proceeding to execution of judgment where a homeowner is current on a payment plan. We ask the County to investigate this troubling conduct by Lien Servicing and Woods Cove.

**(4) Requiring homeowners to give up legal rights in order to obtain payment plans.**

Woods Cove’s improper use of “consent” judgments has manifested itself in other cases as well. Legal Aid has recently evaluated or assisted homeowners in several foreclosure actions where Woods Cove refused to settle through a payment plan unless the homeowner agreed to a “consent” judgment first. In other words, Woods Cove conditioned homeowners’ access to payment plans on homeowners’ subjecting themselves to judgment and giving up significant legal rights—in particular, the right to raise valid claims and defenses and to contest the foreclosure action at trial. While a

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<sup>5</sup> In addition to being misleading and likely to harm the homeowner, this “advice” by the Woods Cove employee may have constituted the unauthorized practice of law.

premature judgment may be convenient for Woods Cove, it is not necessary to protect Woods Cove's interests, since Woods Cove already has access to the remedy of foreclosure if the homeowner later defaults on payments. Furthermore, requiring a homeowner to consent to an automatic court judgment as a condition of a payment agreement on a personal/household debt appears to be impermissible under state law. Under R.C. 2323.13, only in commercial and business transactions can a creditor require a debtor to waive legal notice, waive legal claims and defenses, and waive the opportunity for court trial and agree to an automatic judgment in the event of payment default. R.C. 2323.13(E) expressly prohibits the use of such a "cognovit note" with respect to consumer loans where the creditor (here, Woods Cove) purchases the account from a third party (here, the County).<sup>6</sup> Woods Cove should not be permitted to violate Ohio law by mandating that payment plans be accompanied by a waiver of legal rights and premature entry of judgment.

Indeed, as the Court's Standing Case Management Directive for Foreclosure Actions (attached hereto as Exhibit 3) makes clear, when parties to a foreclosure action enter into a payment plan, dismissal of the court case is the appropriate outcome, not judgment against the homeowner.

We ask the County to investigate and halt all of these improper practices by Woods Cove and Lien Servicing (now known as Davenport Financial, LLC).

If you have questions or need more information, please contact Julie Robie at (216) 861-5896 or at [julie.robie@lasclev.org](mailto:julie.robie@lasclev.org). Thank you in advance for your consideration of and investigation into the concerns raised in this letter.

Sincerely,



Julie K. Robie  
Managing Attorney  
Consumer Law Practice Group



Tom Mlakar  
Deputy Director

Cc: Mark A. Parks, Jr., Fiscal Officer, Cuyahoga County  
William Sheehan, Interim Treasurer, Cuyahoga County  
Timothy McGinty, Prosecutor, Cuyahoga County  
Colleen A. Majeski, Esq., Real Estate Tax Foreclosure Unit Supervisor, Cuyahoga County  
Prosecutor's Office

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<sup>6</sup> R.C. 2323.13(E)(1) provides that, "The term 'consumer loan' includes the creation of debt by the lender's payment of or agreement to pay money... to a third party for the account of the debtor."



**Payment Schedule**  
**Exhibit A- Settlement Agreement**

Down Payment: \$0.00 Must be submitted with Documents  
 Monthly Payment: \$247.19 Start Date: 02/01/2014  
 Number of Monthly Payments 24

**All Payments are due by the first of the month.**

LienID: [REDACTED]  
 County: Cuyahoga  
 Parcel: [REDACTED]  
 Owner: [REDACTED]  
 Address: [REDACTED]  
 Administrative Fee: \$200.00

**Please send all Payments to:**  
 Woods Cove III, LLC  
 File: 1558  
 1801 W Olympic Blvd  
 Pasadena, CA 91199-1558

		<u>Monthly Payment</u>	<u>Monthly Interest</u>	<u>Balance</u>
Down Payment		272 \$0.00		-\$4,485.60
1	02/01/2014	<del>\$247.19</del>	\$60.29	\$4,298.70
	03/01/2014	\$247.19	\$60.29	\$4,111.80
<i>Start</i>	04/01/2014	\$247.19	\$60.29	\$3,924.90
4	05/01/2014	\$247.19	\$60.29	\$3,738.00
5	06/01/2014	\$247.19	\$60.29	\$3,551.10
6	07/01/2014	\$247.19	\$60.29	\$3,364.20
7	08/01/2014	\$247.19	\$60.29	\$3,177.30
8	09/01/2014	\$247.19	\$60.29	\$2,990.40
9	10/01/2014	\$247.19	\$60.29	\$2,803.50
10	11/01/2014	\$247.19	\$60.29	\$2,616.60
11	12/01/2014	\$247.19	\$60.29	\$2,429.70
12	01/01/2015	\$247.19	\$60.29	\$2,242.80
13	02/01/2015	\$247.19	\$60.29	\$2,055.90
14	03/01/2015	\$247.19	\$60.29	\$1,869.00
15	04/01/2015	\$247.19	\$60.29	\$1,682.10
16	05/01/2015	\$247.19	\$60.29	\$1,495.20
17	06/01/2015	\$247.19	\$60.29	\$1,308.30
18	07/01/2015	\$247.19	\$60.29	\$1,121.40
19	08/01/2015	\$247.19	\$60.29	\$934.50
20	09/01/2015	\$247.19	\$60.29	\$747.60
21	10/01/2015	\$247.19	\$60.29	\$560.70
22	11/01/2015	\$247.19	\$60.29	\$373.80
23	12/01/2015	\$247.19	\$60.29	\$186.90
24	01/01/2016	\$247.19	\$60.29	\$0.00
<b>Total Due During Plan</b>		<b>\$5,932.56</b>		

Please contact us at 1-800-604-1876 if a payment will be late or if you have any questions



Payment Schedule  
Exhibit A- Settlement Agreement

Down Payment: \$0.00                      Must be submitted with Documents  
Monthly Payment: \$181.73              Start Date: 1/1/2014  
Number of Monthly Payments 24

All Payments are due by the first of the month.

LienID: [REDACTED]  
County: Cuyahoga  
Parcel: [REDACTED]  
Owner: [REDACTED]  
Address: [REDACTED]  
Administrative Fee: \$200.00

Please send all Payments to:  
Please send all Payments to:  
Woods Cove III, LLC  
File: 1558  
1801 W Olympic Blvd  
1801 W Olympic Blvd  
Pasadena, CA 91199- 1558

		<u>Monthly Payment</u>	<u>Monthly Interest</u>	<u>Balance</u>
Down Payment:		\$0.00		\$3,306.50
1	1/1/2014	\$181.73	\$43.96	\$3,168.73
2	2/1/2014	\$181.73	\$43.96	\$3,030.96
3	3/1/2014	\$181.73	\$43.96	\$2,893.19
4	4/1/2014	\$181.73	\$43.96	\$2,755.42
5	5/1/2014	\$181.73	\$43.96	\$2,617.65
6	6/1/2014	\$181.73	\$43.96	\$2,479.88
7	7/1/2014	\$181.73	\$43.96	\$2,342.11
8	8/1/2014	\$181.73	\$43.96	\$2,204.34
9	9/1/2014	\$181.73	\$43.96	\$2,066.57
10	10/1/2014	\$181.73	\$43.96	\$1,928.80
11	11/1/2014	\$181.73	\$43.96	\$1,791.03
12	12/1/2014	\$181.73	\$43.96	\$1,653.26
13	1/1/2015	\$181.73	\$43.96	\$1,515.49
14	2/1/2015	\$181.73	\$43.96	\$1,377.72
15	3/1/2015	\$181.73	\$43.96	\$1,239.95
16	4/1/2015	\$181.73	\$43.96	\$1,102.18
17	5/1/2015	\$181.73	\$43.96	\$964.41
18	6/1/2015	\$181.73	\$43.96	\$826.64
19	7/1/2015	\$181.73	\$43.96	\$688.87
20	8/1/2015	\$181.73	\$43.96	\$551.10
21	9/1/2015	\$181.73	\$43.96	\$413.33
22	10/1/2015	\$181.73	\$43.96	\$275.56
23	11/1/2015	\$181.73	\$43.96	\$137.79
24	12/1/2015	\$181.73	\$43.96	\$0.00
Total Due During Plan:		\$4,361.54		

Please contact us at 1-800-604-1876 if a payment will be late or if you have any questions

STANDING CASE MANAGEMENT DIRECTIVE  
(Foreclosure Action) -

EXHIBIT

tabbles

3

1. REFERENCE TO THE MAGISTRATE – Upon the filing of a Complaint for Foreclosure the case shall be referred to a Magistrate. The Magistrate shall make Findings of Fact and Conclusions of Law and report to the assigned judge without delay.
2. FORECLOSURE PLEADING -
  - A) PROMISSORY NOTE If the debt involves a Promissory Note, Pursuant to Civil Rule 10(d), the Complaint, Counterclaim or Crossclaim must have attached to it a legible complete copy of the Promissory Note, Mortgage, and all assignments of the note and mortgage up to the date of said pleading.
  - B) LEGAL DESCRIPTION - The Complaint, Counterclaim, or Crossclaim, or any amendment thereto, or an exhibit thereof, must evidence an accurate legal description of the property.
3. SERVICE OF SUMMONS – Absent a showing of good cause, service must be perfected within 6 months of the date of filing the Complaint or a Supplemental or Amended Complaint. Pursuant to Civil Rule 3, service shall be completed within twelve months, or the case shall be dismissed without prejudice.
4. CASE MANAGEMENT CONFERENCES/PRETRIALS - No Case Management Conference or Pretrial will be set for a foreclosure action unless deemed appropriate by the court. If an oral hearing or pretrial has been scheduled, failure to appear may result in default judgment or an adverse judgment against the party not appearing, and any other sanction against a party or attorney the court deems appropriate.
5. MOTIONS FOR DEFAULT JUDGMENT – All motions for default judgment shall be set for hearing within thirty days. The hearing shall be held no later than 60 days from the date the hearing was set. Movant shall meet all the necessary legal requirements for foreclosure prior to said motion for default judgment being granted. Magistrates may dismiss the case without prejudice if the above referenced requirements are not satisfied, or in the alternative a magistrate may grant counsel an allotted amount of time to comply with the above referenced requirements as set forth by law.
6. VACANT AND ABANDONED PROPERTY DOCKET – Subsequent to a case being filed on the court's docket, a municipality may File an Affidavit of Vacancy averring that the property is vacant. All parties shall be notified by the magistrate of said assignment and shall have an opportunity to object in writing to the property designation. If no objections are filed and the case is not otherwise contested then the magistrate shall set all motions for default judgment for Hearing. Movant shall meet all the necessary legal requirements for foreclosure prior to said motion for default judgment being granted. Magistrates may dismiss the case without prejudice if the above referenced requirements are not met, or in the alternative a magistrate may grant counsel an allotted amount of time to comply with the above referenced requirements as set forth by law.

7. CONTESTED CASES – In the event foreclosure action becomes contested, a Pretrial or Case Management Conference will be set.
8. TRIAL CONTINUANCES - No continuance of a trial date will be granted without filing a written motion with supporting affidavits or other appropriate documentation.
9. TRIAL BRIEFS, WITNESS LISTS AND EXHIBITS - If the matter is appropriate for trial, the Court shall establish deadlines to submit Trial Briefs, Witness Lists and Exhibit Lists by separate order.
10. BANKRUPTCY AND MILITARY STAYS - If it is necessary for the case to be stayed because of a Bankruptcy filing or because one of the parties is on active duty in the military, any party may notify the Court. When the reason for the Stay is no longer applicable, any party may move the Court for reinstatement of said case.
11. REACTIVATED CASES-Upon reactivation of a foreclosure action, any claimant wishing to pursue foreclosure shall have the time pursuant to Civil Rule 4e and Civil Rule 3 to complete service and 45 days to proceed thereafter by filing a motion for default judgment or the case may be dismissed without prejudice. The time to perfect service of summons and the response period to a pleading or motion shall be tolled from the day the court stays an action until the court reactivates the case.
12. SETTLEMENT – Plaintiff's counsel shall notify the court of any payment plan or Forbearance agreement entered into on a pending case agreement entered into on a pending case within seven days of said agreement. The court may dismiss the case without prejudice upon said notice, in order to enable plaintiff to re-file the case should the debtor fail to make payments pursuant to said agreement.
13. FILING OF THE DEED: At the time of the sheriff's sale, the purchaser shall provide the sheriff with the name, address and phone number of the party responsible with the care and upkeep of the property. The sheriff's deed shall be executed by the sheriff and delivered to the purchaser upon the payment of the full purchase price and interest, if any. The deed shall thereafter be filed for record with the Cuyahoga County Recorder by the purchaser, or on the purchaser's behalf, at the purchaser's expense, including but not limited to the payment of all applicable transfer taxes, filing and recording fees.
14. JUDICIAL AUTONOMY – The foregoing directive does not preclude any judge from taking any file assigned to their docket to preside over in their courtroom. . Said directive is a guideline to the magistrates department.

COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO

FILED

WOODS COVE II LLC

Case No. CV 807004

-vs-

JUDGE MICHAEL RUSSO

NOV -3 P 1:11  
CLERK OF COURTS  
CUYAHOGA COUNTY

SHARON HEGLER, et al.

MAGISTRATE'S DECISION

Defendants.

This case is before the Magistrate on the Motion to Dismiss for lack of personal jurisdiction filed by Sharon Hegler. After a hearing on the Motion, the Magistrate makes the following findings of fact and conclusions of law.

This case was filed on May 9, 2013 as a tax certificate foreclosure action. This case was filed on May 9, 2013, even though the Plaintiff and Defendant Sharon Hegler had entered into a payment agreement. Ex A. This payment agreement contains several provisions; however only two are pertinent to this discussion.

First, the agreement, entitled a **Settlement Agreement**, states:

**Woods Cove agrees that during the forbearance period (as herein after defined) IT WILL NOT EXERCISE ITS RIGHT TO ENFORCE THE TAX LIEN BY CIVIL ACTION and/or execution of a judgment in any court with jurisdiction provided no Event of Default (as hereinafter defined) has occurred.**

The **Settlement Agreement** also states:

**This agreement embodies the entire understanding and agreement of Woods Cove and Owner with respect to the matters contained in this agreement and superseded**

**all prior agreements and understandings relating to the subject matter of this agreement.**

Even though the copy of the settlement agreement provided to the Court and attached as Ex. A is signed only by Defendant Sharon Hegler, there is no dispute that the agreement exists, that Defendant Sharon Hegler has made nine payments pursuant to the terms of the settlement agreement, and is current in her payments pursuant to the terms of the agreement.

Defendant Sharon Hegler seeks dismissal of the Complaint for lack of personal jurisdiction pursuant to Civ. R. 12(B)(2) and (5). Ms. Hegler testified that she was not served with the Complaint. The Court's docket shows that Ms. Hegler was purportedly served by regular mail service pursuant to Civ. R. 4.6(D) on April 15, 2014, at the address of "14126 Christine Ave, Cleveland, Ohio 44105." Ms. Hegler testified that she has not lived at this address since 2008. Moreover, it should be noted that on January 9, 2013, Plaintiff filed a foreclosure action, Cuy. Case CV 13 799191, to foreclose its tax liens on the property located at "14126 Christine Ave, Cleveland, Ohio 44105." At the time Plaintiff served Defendant at this address, the property was scheduled for a Sheriff's sale and was ultimately forfeited to Plaintiff by Court order of May 1, 2014. Additionally, Plaintiff perfected service on Defendant Hegler in Case No. 799191 at the address of "PO BOX 281112, Cleveland, Ohio 44120," an address that Defendant Hegler testified she does receive mail.

In order to have personal jurisdiction over a Defendant, there must be either service of process upon the Defendant, the Defendant's voluntary appearance and submission to the Court's jurisdiction, or an appearance that waives the affirmative defense of personal jurisdiction. Mayhew v. Yova, 11 Ohio St.3d 154, 464 N.E.2d 538 (1984). "Where the Plaintiff follows the Civil Rules governing service of process, courts presume that service is proper unless

the defendant rebuts this presumption with sufficient evidence of non-service.” Corley v. Sullivan-Busman, 8th Dist. Cuyahoga No. 99420, 2013 Ohio 3909, *citing* Carter-Jones Lumber Co. v. Meyers, 2d Dist. Clark No. 2005 CA 97, 2006 Ohio 5380. Furthermore, “an action may be dismissed when service of process has not been obtained after the passage of more than one year.” Mayhew, 11 Ohio St.3d 154, *citing* Lash v. Miller, (1977), 50 Ohio St.2d 63 (40.O.3d 155). A dismissal may be appropriate in these circumstances because the action will not have been commenced pursuant to Civ. R. 3. Id.

Defendant Sharon Hegler sufficiently, with uncontroverted evidence, rebutted the presumption of service. She testified unequivocally that she was not served with the Complaint and there is sufficient evidence in the record that Plaintiff knew or should have known, not only the Defendant’s proper addresses, but that the address it attempted service was not where Defendant Sharon Hegler resided.

Despite the fact that Defendant Sharon Hegler has not been served with the Complaint and that more than one year has passed since the filing of the case, the Magistrate finds that the case has commenced pursuant to Civ. R. 3. The case has commenced because several other Defendants, namely, Earl Hegler, Huntington National Bank, the Cuyahoga County Treasurer, and the Unknown Spouse if any of Earl Hegler were served with the Complaint and the service was accomplished within one year of the filing date. “There is no requirement that the plaintiff obtain service on *all* defendants” pursuant to Civ. R. 3(A) for a civil action to commence. McCarthy v. River Pines RV Resort Condominium Association, Inc., 164 Ohio Misc.2d 1, 2011-Ohio-3460, 951 N.E.2d 165. Although the Court does not have personal jurisdiction against Defendant Sharon Hegler as she has not been served with Summons and the Complaint, this case has been commenced and therefore dismissal for failure to commence would be improper.

The Magistrate does find, however, that a dismissal of the case is proper and warranted based on the Court's Standing Case Management Directive. Ex. C. The Court's Standing Case Management Directive calls for dismissals, without prejudice, of foreclosure cases in which the parties have entered into a repayment plan. The uncontroverted evidence offered at the hearing demonstrates that the parties are in a repayment plan and that there are no other agreements in place other than the Settlement Agreement attached as Exhibit A.<sup>1</sup> As such, and pursuant to the Court's Standing Case Management Directive, this case is dismissed without prejudice.

The Magistrate's decision, filed on September 18, 2014, is hereby set aside.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that this case is dismissed without prejudice.

THE RECORD IS HEREBY ORDERED.

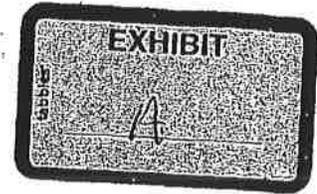
  
Magistrate Amy Cuthbert

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<sup>1</sup> Attached as Exhibit B is a letter stating that the Court has required the parties to file a Consent Decree of Foreclosure. A review of the Court's docket and the audio of the Default Hearing held on September 16, 2014, shows that there was no discussion between the Magistrate and Counsel for Plaintiff regarding a payment plan, settlement agreement, or a Consent Decree of Foreclosure. Moreover, despite entering into a settlement agreement and repayment plan, Counsel for Plaintiff did not inform the Court of this at any time, including the default hearing.

**NOTICE OF OPPORTUNITY TO OBJECT:**

A party shall not assign error on appeal the court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Civ. R. 53(D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion as required by Civ. R. 53(D)(3)(b).



SETTLEMENT AGREEMENT

THIS SETTLEMENT ARGEEMENT, ("Agreement") is made by and entered between Sharon Hegler (the "Owner") and Woods Cove II, LLC ("Woods Cove" or "Holder"), and is effective as of the date of the last signature, below, (the "Effective Date").

WHEREAS, the Owner owns certain real property located in the City of Cleveland, Ohio and commonly known as 17521 Judson Dr, permanent parcel number 141-12-084(the "Property"); and

WHEREAS, certain property taxes, assessments, penalties, interest, and various other charges that may be liens (all together called the "Tax Lien" or "Tax Lien Certificate(s)") on the Property, are past due and have not, as of the date of this Agreement, been paid; and

WHEREAS, the holder may pay additional taxes or has purchased from the Treasurer of Cuyahoga County additional taxes, and that additional taxes may come due which Holder may purchase from the County in the future resulting in issuance of one or more additional Tax Lien Certificate(s); and

WHEREAS, Woods Cove or its designee is the owner and holder of the Tax Lien.

WHEREAS, the Owner has requested, and Woods Cove has agreed, to forbear for a specified period from exercising the various rights and remedies available to Woods Cove to enforce its Tax Lien.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Woods Cove and Owner agree as follows:

1. Owner acknowledges and agrees that the Tax Lien and Tax Lien Certificates are valid and enforceable.
2. Owner acknowledges the validity of Woods Cove's lien interest in the Property.
3. Woods Cove agrees that during the Forbearance Period (as hereinafter defined) it will not exercise its right to enforce the Tax Lien by civil action and/or execution of a judgment in any court with jurisdiction, provided no Event of Default (as hereinafter defined) has occurred.
4. Woods Cove and Owner agree that the statement attached as Exhibit A and incorporated herein is a schedule of minimum monthly payments with due date for each payment which Owner has agreed to remit in order to pay off the Tax Lien, plus an administration fee of \$100.00 per year. There is no penalty for prepayment at Owner discretion.
5. Payments shall be timely made in certified funds, personal check or money order, payable to "Woods Cove II, LLC" and mailed to:

Woods Cove II, LLC  
FILE 1411  
1801 W OLYMPIC BLVD  
PASADENA, CA 91199-1411

6. The "Forbearance Period" begins on the date the first payment is received by Woods Cove and ends on the date all payments are timely made or any Event of Default occurs.

7. The occurrence of any of the following shall constitute an "Event of Default" under this Agreement:

- (a) Owner fails to pay any sum required to be paid under this Agreement when due;
- (b) Any petition for any form of relief under any provision of the Bankruptcy Code or any other law pertaining to reorganization, insolvency, or adjustment of debts is filed by Owner, or Owner makes an assignment for the benefit of creditors;
- (c) Any creditors of Owner shall commence against Owner an involuntary case under any applicable bankruptcy, insolvency or other similar law and such case shall not be discharged or dismissed within thirty (30) days after the date on which such case was commenced;
- (d) Any court of competent jurisdiction shall enter an order, judgment, or decree appointing a receiver for the Property or for the assets or affairs of Owner and such order, judgment or decree shall not be dismissed or discharged within ten (10) days after the date of such entry;
- (e) Any garnishment, attachment, levy, foreclosure, or execution action is filed against the Property or Owner, or either of them, which garnishment, attachment, levy, foreclosure or execution shall not be dismissed or discharged within ten (10) days after the date of such filing;
- (f) There is a change in ownership of the Property; or
- (g) There is a substantial change in the condition of the Property and/or the improvements and fixtures thereon;
- (h) Current Taxes are not paid;

8. Upon or at any time after the occurrence of an Event of Default, Woods Cove may, without notice to Owner, terminate this Agreement and, on behalf of Holder, exercise any or all of the rights and remedies available to it relating to Owner and the Property. In the event Woods Cove terminates this Agreement upon the occurrence of an Event of Default, all agreements and representations made by Owner shall survive such termination.

9. Owner agrees that should it enter into a contract of sale or other transfer of the Property, or contract for any loan where the repayment of such loan proceeds is secured to any extent by the Property, such contract shall include a provision that this Agreement be satisfied and paid in full out of either the proceeds of sale or proceeds of the loan. Owner further agrees that should said contract for loan secured by the Property or contract for sale be entered into by Owner, Owner shall satisfy, pay and otherwise discharge all obligations imposed by this Agreement out of the proceeds of said loan or sale.

10. Woods Cove may assign its rights and obligations under this Agreement without Owner's consent. Owner cannot assign its rights and obligations under this Agreement without Woods Cove's consent. This Agreement shall be binding upon and shall inure to the benefit of, the parties, respective heirs, successors and assigns.

11. Woods Cove specifically reserves its right to purchase any property tax delinquencies and/or tax lien certificates representative of any tax delinquencies which are not covered by the Tax Lien.

12. Woods Cove specifically reserves its right to seek and receive satisfaction and payment of the Tax Lien, either partially or fully, from any other entity or person who is lawfully permitted to pay the Tax Lien, including any and all lien holders on the Property.

13. This Agreement embodies the entire understanding and agreement of Woods Cove and Owner with respect to the matters contained in this Agreement and supersedes all prior agreements and understandings relating to the subject matter of this Agreement.

14. This Agreement may not be amended or modified except in a writing signed by the party against whom enforcement is sought.

15. No delay or omission on the part of Woods Cove in exercising any right or remedy shall operate as a waiver of such right or remedy or any other right or remedy. A waiver of a right or remedy on any one occasion shall not be construed as a bar to the exercise of that or any other right or remedy on any future occasion.

16. This Agreement shall be governed and construed in accordance with the laws of the State of Ohio.

17. Owner agrees to execute all additional documents and do all acts not specifically referred to in this Agreement which are or may become necessary to fully effectuate the intent of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, as of the day and year next to the last dated signature, below.

“WOODS COVE”

WOODS COVE II, LLC

BY:  
ITS:

DATE

“OWNER”

  
\_\_\_\_\_  
Owner

3-7-14  
DATE

**Payment Schedule**  
**Exhibit A- Settlement Agreement**

Down Payment: \$1,000.00      Must be submitted with Documents  
 Monthly Payment: \$319.76      Start Date: 04/01/2014  
 Number of Monthly Payments 36

All Payments are due by the first of the month.

LienID: 8944  
 County: Cuyahoga  
 Parcel: 141-12-084  
 Owner: Hegler, Sharon & Hegler, Earl  
 Address: 17521 Judson Dr  
 Administrative Fee: \$300.00

Please send all Payments to:  
 Woods Cove II, LLC  
 File: 1411  
 1801 W Olympic Blvd  
 Pasadena, CA 91199-1411

		<u>Monthly Payment</u>	<u>Monthly Interest</u>	<u>Balance</u>
Down Payment		\$1,000.00		\$9,071.28
1	04/01/2014	\$319.76	\$67.78	\$8,819.30
2	05/01/2014	\$319.76	\$67.78	\$8,567.32
3	06/01/2014	\$319.76	\$67.78	\$8,315.34
4	07/01/2014	\$319.76	\$67.78	\$8,063.36
5	08/01/2014	\$319.76	\$67.78	\$7,811.38
6	09/01/2014	\$319.76	\$67.78	\$7,559.40
7	10/01/2014	\$319.76	\$67.78	\$7,307.42
8	11/01/2014	\$319.76	\$67.78	\$7,055.44
9	12/01/2014	\$319.76	\$67.78	\$6,803.46
10	01/01/2015	\$319.76	\$67.78	\$6,551.48
11	02/01/2015	\$319.76	\$67.78	\$6,299.50
12	03/01/2015	\$319.76	\$67.78	\$6,047.52
13	04/01/2015	\$319.76	\$67.78	\$5,795.54
14	05/01/2015	\$319.76	\$67.78	\$5,543.56
15	06/01/2015	\$319.76	\$67.78	\$5,291.58
16	07/01/2015	\$319.76	\$67.78	\$5,039.60
17	08/01/2015	\$319.76	\$67.78	\$4,787.62
18	09/01/2015	\$319.76	\$67.78	\$4,535.64
19	10/01/2015	\$319.76	\$67.78	\$4,283.66
20	11/01/2015	\$319.76	\$67.78	\$4,031.68
21	12/01/2015	\$319.76	\$67.78	\$3,779.70
22	01/01/2016	\$319.76	\$67.78	\$3,527.72
23	02/01/2016	\$319.76	\$67.78	\$3,275.74
24	03/01/2016	\$319.76	\$67.78	\$3,023.76
25	04/01/2016	\$319.76	\$67.78	\$2,771.78
26	05/01/2016	\$319.76	\$67.78	\$2,519.80
27	06/01/2016	\$319.76	\$67.78	\$2,267.82
28	07/01/2016	\$319.76	\$67.78	\$2,015.84
29	08/01/2016	\$319.76	\$67.78	\$1,763.86
30	09/01/2016	\$319.76	\$67.78	\$1,511.88
31	10/01/2016	\$319.76	\$67.78	\$1,259.90
32	11/01/2016	\$319.76	\$67.78	\$1,007.92
33	12/01/2016	\$319.76	\$67.78	\$755.94
34	01/01/2017	\$319.76	\$67.78	\$503.96
35	02/01/2017	\$319.76	\$67.78	\$251.98
36	03/01/2017	\$319.76	\$67.78	\$0.00
Total Due During Plan		\$12,511.36		

Please contact us at 1-800-604-1876 if a payment will be late or if you have any questions

Court's Ex. "B"

DEF  
EXHIBIT 3

LIEN SERVICING, LLC

Tuesday, April 8, 2014

Sharon Hegler  
17521 Judson Dr  
Cleveland, OH 44128

**RE: Payment Plan-ID 8944**

Sharon Hegler,

Woods Cove has been notified by the court that we are required to file the enclosed Consent Judgment Entry in your case. This will allow your case to proceed to the Judgment stage and allow it to stay open long enough for you to finish your payment plan.

If you have any additional questions regarding the payment plan for the delinquent taxes you can contact us at 1-800-604-1876.

Sincerely yours,

*Chrystal Bongiorno*

**Chrystal Bongiorno**  
Lien Servicing, LLC

Court's Ex. "C" STANDING CASE MANAGEMENT DIRECTIVE  
(Foreclosure Action) -

Final  
One  
Sept 8, 10

1. REFERENCE TO THE MAGISTRATE - Upon the filing of a Complaint for Foreclosure the case shall be referred to a Magistrate. The Magistrate shall make Findings of Fact and Conclusions of Law and report to the assigned judge without delay.
2. FORECLOSURE PLEADING -
  - A) PROMISSORY NOTE If the debt involves a Promissory Note, Pursuant to Civil Rule 10(d), the Complaint, Counterclaim or Crossclaim must have attached to it a legible complete copy of the Promissory Note, Mortgage, and all assignments of the note and mortgage up to the date of said pleading.
  - B) LEGAL DESCRIPTION - The Complaint, Counterclaim, or Crossclaim, or any amendment thereto, or an exhibit thereof, must evidence an accurate legal description of the property.
3. SERVICE OF SUMMONS - Absent a showing of good cause, service must be perfected within 6 months of the date of filing the Complaint or a Supplemental or Amended Complaint. Pursuant to Civil Rule 3, service shall be completed within twelve months, or the case shall be dismissed without prejudice.
4. CASE MANAGEMENT CONFERENCES/PRETRIALS - No Case Management Conference or Pretrial will be set for a foreclosure action unless deemed appropriate by the court. If an oral hearing or pretrial has been scheduled, failure to appear may result in default judgment or an adverse judgment against the party not appearing, and any other sanction against a party or attorney the court deems appropriate.
5. MOTIONS FOR DEFAULT JUDGMENT - All motions for default judgment shall be set for hearing within thirty days. The hearing shall be held no later than 60 days from the date the hearing was set. Movant shall meet all the necessary legal requirements for foreclosure prior to said motion for default judgment being granted. Magistrates may dismiss the case without prejudice if the above referenced requirements are not satisfied, or in the alternative a magistrate may grant counsel an allotted amount of time to comply with the above referenced requirements as set forth by law.
6. VACANT AND ABANDONED PROPERTY DOCKET - Subsequent to a case being filed on the court's docket, a municipality may File an Affidavit of Vacancy averring that the property is vacant. All parties shall be notified by the magistrate of said assignment and shall have an opportunity to object in writing to the property designation. If no objections are filed and the case is not otherwise contested then the magistrate shall set all motions for default judgment for Hearing. Movant shall meet all the necessary legal requirements for foreclosure prior to said motion for default judgment being granted. Magistrates may dismiss the case without prejudice if the above referenced requirements are not met, or in the alternative a magistrate may grant counsel an allotted amount of time to comply with the above referenced requirements as set forth by law.

7. CONTESTED CASES – In the event foreclosure action becomes contested, a Pretrial or Case Management Conference will be set.
8. TRIAL CONTINUANCES - No continuance of a trial date will be granted without filing a written motion with supporting affidavits or other appropriate documentation.
9. TRIAL BRIEFS, WITNESS LISTS AND EXHIBITS - If the matter is appropriate for trial, the Court shall establish deadlines to submit Trial Briefs, Witness Lists and Exhibit Lists by separate order.
10. BANKRUPTCY AND MILITARY STAYS - If it is necessary for the case to be stayed because of a Bankruptcy filing or because one of the parties is on active duty in the military, any party may notify the Court. When the reason for the Stay is no longer applicable, any party may move the Court for reinstatement of said case.
11. REACTIVATED CASES-Upon reactivation of a foreclosure action, any claimant wishing to pursue foreclosure shall have the time pursuant to Civil Rule 4e and Civil Rule 3 to complete service and 45 days to proceed thereafter by filing a motion for default judgment or the case may be dismissed without prejudice. The time to perfect service of summons and the response period to a pleading or motion shall be tolled from the day the court stays an action until the court reactivates the case.
12. SETTLEMENT – Plaintiff's counsel shall notify the court of any payment plan or Forbearance agreement entered into on a pending case agreement entered into on a pending case within seven days of said agreement. The court may dismiss the case without prejudice upon said notice, in order to enable plaintiff to re-file the case should the debtor fail to make payments pursuant to said agreement.
13. FILING OF THE DEED: At the time of the sheriff's sale, the purchaser shall provide the sheriff with the name, address and phone number of the party responsible with the care and upkeep of the property. The sheriff's deed shall be executed by the sheriff and delivered to the purchaser upon the payment of the full purchase price and interest, if any. The deed shall thereafter be filed for record with the Cuyahoga County Recorder by the purchaser, or on the purchaser's behalf, at the purchaser's expense, including but not limited to the payment of all applicable transfer taxes, filing and recording fees.
14. JUDICIAL AUTONOMY – The foregoing directive does not preclude any judge from taking any file assigned to their docket to preside over in their courtroom. . Said directive is a guideline to the magistrates department.

CERTIFICATE OF SERVICE

Copies of the foregoing have been sent by ordinary U.S. mail this \_\_\_\_ day of \_\_\_\_\_, 200\_\_ by the Clerk of Courts to the following parties or their counsel of record:

Suzanne Soloski, Esq.  
1370 Ontario Street, Suite 600  
Cleveland, Ohio 44113

Phillip Althouse, Esq.  
1530 West River Road, Suite 301  
Elyria, Ohio 440335

Earl Hegler  
4756 E. 90<sup>th</sup> Street  
Cleveland, Ohio 44125

Spouse of Earl Hegler  
4756 E. 90<sup>th</sup> Street  
Cleveland, Ohio 44125

Huntington National Bank  
41 South High Street 7<sup>th</sup> Floor  
Columbus, Ohio 43215

State of Ohio Dept. of Taxation  
150 East Gay Street, 21<sup>st</sup> Floor  
Columbus, Ohio 43215

Anthony Giunta, Esq  
1200 Ontario Street  
8<sup>th</sup> Floor Justice Center  
Cleveland, Ohio 44113

NOV 04 2014

COPIES MAILED BY CLERK:

(Date)

*D. Brown*

Clerk of Courts

# LIEN SERVICING, LLC

EXHIBIT

tabbles

5

Wednesday, March 05, 2014

Re: Settlement Agreement  
Client: Woods Cove II, LLC  
Firm File: 8944  
Property Address: 17521 Judson Dr, Cleveland, OH 44128

Pursuant to your request, enclosed, please find your Delinquent Tax Settlement Agreement. Kindly review, execute, and return your Settlement Agreement, along with your first payment, **on or before the end of the month**. Your monthly payment schedule is itemized on Exhibit A of the Settlement Agreement attached. All payments must be made payable to: Woods Cove II, LLC.

Monthly payments can be made via ACH, personal check or certified funds (cashier's check, money order, certified check) and must be mailed to the address below and received by the 1<sup>st</sup> of each month.

Woods Cove II, LLC  
File 1411  
1801 W Olympic Blvd  
Pasadena, CA 91199-1411

For your convenience, you may also opt to have your monthly payments automatically drafted from a checking or savings account of your choice, the first of each month until the term of your settlement agreement. If so, please execute the enclosed ACH Authorization form and submit with your executed Settlement Agreement. Upon receipt, your form will be processed and your first, automatic, recurring payment will take effect on the 1<sup>st</sup> of the month. Please take the appropriate steps to ensure that your monthly settlement funds are available for withdrawal on the 1<sup>st</sup> of each month.

Thank you for your prompt attention to this matter. Should you have any additional questions or concerns, please do not hesitate to contact me to discuss. **Please take notice that all original, executed documents and your first settlement payment must be submitted to the attention of Woods Cove II, LLC.**

Warm Regards,

*Matthew Morgan*

Woods Cove II, LLC



## LIEN SERVICING, LLC

Tuesday, April 8, 2014

Sharon Hegler  
17521 Judson Dr  
Cleveland, OH 44128

**RE: Payment Plan-ID 8944**

Sharon Hegler,

Woods Cove has been notified by the court that we are required to file the enclosed Consent Judgment Entry in your case. This will allow your case to proceed to the Judgment stage and allow it to stay open long enough for you to finish your payment plan.

If you have any additional questions regarding the payment plan for the delinquent taxes you can contact us at 1-800-604-1876.

Sincerely yours,

A handwritten signature in cursive script that reads "Chrystal Bongiorno".

**Chrystal Bongiorno**  
Lien Servicing, LLC



Brett Jaffe President  
Davenport Financial, LLC  
1100 Superior Ave Cleveland,  
OH 44128 February 3, 2015

William (Bill) N. Sheehan III  
Interim Treasurer  
Cuyahoga County - Treasury Department  
2079 East Ninth Street Cleveland, OH  
44115

Interim Treasurer Bill Sheehan:

Per your request, Davenport Financial, LLC, a Cleveland-based tax lien portfolio servicing company, (“Davenport” and formerly known as Lien Servicing) would like to take this opportunity to update Cuyahoga County on its current real estate efforts, resources and processes on behalf of its real estate affiliate, Lakeside REO Ventures (“Lakeside”). Lakeside purchases all of the forfeited Cuyahoga County real estate from Woods Cove II, LLC and Woods Cove III, LLC (together “Woods Cove”). Davenport services tax lien portfolios for its client Woods Cove, including all of the tax lien purchases made by Woods Cove from Cuyahoga County.

Through February 1<sup>st</sup>, 2015, Woods Cove has purchased liens on 8,124 parcels, totaling \$70,862,689 of total investment from Cuyahoga County since its first negotiated purchase in November 2011. To date, 401 properties have been purchased by Lakeside from Woods Cove as they had failed to sell at Sheriff Sale. Lakeside received deed on the vast majority of these properties (over 99%) after June 1, 2014. As of February 1<sup>st</sup>, 2015, Lakeside owned 339 properties in Cuyahoga County with 35% under contract to sell.

Since its engagement as the servicer for Woods Cove in February 2013, Davenport has made substantial investments in new resources to meet the needs of Cuyahoga County and better service the Woods Cove tax lien portfolios. During our diligence meeting in September 2013, prior to the successful tax lien purchase by Woods Cove III, LLC, we presented our progress to date and committed to continue to invest in both resources and staff as part of the County’s tax delinquency collections. Our discussions in that meeting focused on the status of prior portfolios, the growth in our systems and processes and our future goals in both customer service and real estate disposition. We have made significant strides and are proud of the work our staff has accomplished since that meeting.

A clear example of Davenport’s accomplishments and its commitment to a strong relationship with the County is the fact that Davenport relocated its corporate headquarters to downtown Cleveland where it employs 40 full-time employees in its new office, which is only a five minute walk to the Cuyahoga County Administration Building, compared with 12 employees at the time of the September 2013 Woods Cove tax lien purchase. During the last nine months, Davenport has significantly focused its investment in personnel and resources to build a team that can effectively manage Lakeside’s real estate portfolio.



## DAVENPORT FINANCIAL

Currently, Davenport employs 15 individuals focused solely on the management of Lakeside's real estate holdings. The real estate department has seven individuals focused on preservation and customer service, including three drivers and two inspectors, five focused on construction and rehabilitation, and three covering management and analysis. Our hiring process focuses on bringing experienced talent onto the Lakeside real estate team. As an example, our staff includes a former inner ring suburb inspector who was a member of VAPAC, a former employee of a local housing non-profit, a former police officer from East Cleveland, a military veteran, and an individual from a local banking institution with experience in their real estate program. Likewise, Davenport continues to invest in developing industry leading I.T. solutions to track and manage all of Lakeside's real estate activity.

Davenport has formulated, and will constantly improve, a rigorous defined process related to the forfeited Lakeside property. The following is a brief summary of Lakeside's current process:

When Lakeside receives forfeiture on a property, its preservation drivers visit each property to secure and inspect the property. If occupied, the drivers deliver an information packet to the occupant. For vacant properties, we evaluate the property with a detailed first inspection and complete a check list of preservation items which includes winterizations, cleanouts, additional boarding/securing, landscaping/tree removal, stabilization of structural issues, roof repair and other maintenance issues. During that inspection, photos of the entire property are taken to assist the real estate team in their evaluation of the property. Our analysis team then consults with Cleveland based local realtors to determine the proper initial strategy for the property, whether the property is a viable candidate for a rehabilitation, an as-is sale or a potential donation and/or demolition. Once that determination is made, Davenport works with its network of local brokers, local construction vendors and other relationships, to meet its objectives.

For occupied properties, Davenport attempts to establish contact with the occupant and may offer a rental option which allows the individual to stay in the home. We determine the viability of a rental based on a number of factors which include condition of the property, location, property value, market rent and viability of the tenant to pay the rent. If the rental option does not work, Davenport will offer a cash-for-keys option to the occupant. Lastly, if neither of those options are successful, Davenport will proceed with an eviction. Once an occupied property has been vacated, the vacant process described above will begin.

As part of its ongoing property management program, Davenport's real estate preservation teams will drive each property at least every other week to evaluate and address any new or existing preservation or safety issues.

In an effort to improve and streamline communication with each of the municipalities in Cuyahoga County, Davenport has created a customized preservation email address that it distributes to cities in Cuyahoga to quickly identify and solve preservation issues or other property concerns. Preservation issues raised by the cities are addressed on a same day basis.

If same day completion is not possible, we communicate and work with the city to formulate an agreed upon plan.



# DAVENPORT FINANCIAL

Some additional facts that are worth noting:

- To date, on Lakeside's Cuyahoga real estate holdings, Davenport has:
  - a. Cleaned 204 forfeited properties removing 1,600 square yards of debris.
  - b. Ordered Point of Sale inspections on over 100 properties.
  - c. Mowed more than 1,000 lawns and boarded 200 windows on Cuyahoga County properties.
  - d. Rehabilitated, or are in the process of renovating, 44 properties and plans to rehabilitate at least 10 properties per month during the calendar year 2015. Renovations include properties in Bedford, Cleveland, Cleveland Heights, Euclid, Garfield Heights, Lakewood, Maple Heights, Newburgh Heights, South Euclid, University Heights and Warrensville Heights.
  - e. Worked with nearly 20 local construction vendors and employed 118 local third party individuals for construction work.
  - f. Avoided eviction on 19 occupied properties by offering the occupants' rental or purchase options.

Lakeside, with Davenport's support, has taken significant concrete steps to ensure it is meeting its obligations as a significant property owner in Cuyahoga County. We will gladly answer any questions or

Sincerely,

concerns that you may have concerning our efforts. We look forward to working closely with Cuyahoga County in the future.

Brett Jaffe //  
President  
Davenport Financial, LLC

TAX CERTIFICATE  
SALE/PURCHASE AGREEMENT

By and Between

CUYAHOGA COUNTY, OHIO,  
as Seller

And

WOODS COVE III, LLC  
as Purchaser

And

LIEN SERVICING, LLC  
As Servicer

Effective Date: September 9<sup>th</sup>, 2013

TAX CERTIFICATE

SALE/PURCHASE AGREEMENT

THIS TAX CERTIFICATE SALE/PURCHASE AGREEMENT (herein this "Agreement") is dated as of September 9<sup>th</sup>, 2013(the "Effective Date") by and between the County of Cuyahoga, Ohio, a political subdivision of the State of Ohio organized and existing under the Charter of Cuyahoga County effective January 1<sup>s</sup>, 2010, as same may have been amended, modified and supplemented to the date hereof, having an address at 1219 Ontario Street, Cleveland, Ohio 44113 (the "County" or "Seller"), through its Treasurer (the "Treasurer"), Woods Cove III, LLC, a Delaware limited liability company, its successors, affiliates, agents, and assigns, (the "Purchaser" or "Buyer"), and Lien Servicing, LLC, a Delaware limited liability company, its successors, affiliates, agents, and assigns (the "Servicer"; the County, Treasurer, Purchaser and Servicer each a "Party" and, collectively, the "Parties"). All capitalized, undefined terms used herein shall have the meanings ascribed to them in Article I hereof.

WITNESSETH:

WHEREAS, the Seller desires to assign, transfer, sell and convey to the Purchaser and the Purchaser desires to acquire by assignment, transfer, sale and conveyance rights with respect to the Sold Tax Liens, as defined herein, through the sale of certificates ("Tax Certificates"), all subject to the terms and conditions set forth in this Agreement and pursuant to Ohio Revised Code Sections ("R.C.") 5721.30 to 5721.43 (the "Act").

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, the sufficiency of which is hereby expressly acknowledged by the parties, and intending to be legally bound, the Seller and the Purchaser covenant and agree as follows:

ARTICLE I  
DEFINITIONS

The following terms will have the meanings specified below unless the context clearly requires otherwise:

"Abandoned Property" means a Tax Certificate Parcel that satisfies either the definition of "delinquent vacant lands" in R.C. 5721.01(A) or the definition of "abandoned land" in R.C. 323.65.

"Adjustments" means amounts, as determined by the Treasurer, as necessary to reconcile or correct errors with respect to the Sold Tax Liens, including payments and interest.

"Aggregate Tax" means, with respect to any Sold Tax Lien, the full amount of tax due (as defined by the Ohio Revised Code), including the full amount of delinquent taxes charged against a Certificate Parcel at the time the Tax Certificate for that Certificate Parcel is sold or transferred plus interest accrued, plus any additional interest, fees, charges or penalties allowed by the Statutes and assignable pursuant to the Act. The Aggregate Tax will serve as the basis for calculation of the

Purchase Price.

**“Business Day”** means a day of the year on which the County’s administrative offices are not required or authorized to be closed for business; any reference to “day” or “days” shall mean a Business Day.

**“Certificate Parcel”** means a parcel of delinquent land, as such term is defined in R.C. 5721.01(A)(1).

**“Certificate Purchase Period”** means the 18-month period beginning on the Effective Date; the Treasurer may, in the Treasurer’s sole discretion, within 30 days prior to the end of the Certificate Purchase Period, agree, in writing, to extend the Certificate Purchase Period an additional 18 months, for a total of 36 months.

**“Certificate Purchase Price”** means, with respect to the sale of Tax Certificates under the Act, the Aggregate Tax, not including any delinquent taxes the lien for which has been conveyed to a certificate holder through a prior sale of a Tax Certificate for the Certificate Parcel, plus the Treasurer’s Fee.

**“Certificate Redemption Price”** means, with respect to a Tax Certificate, the Certificate Purchase Price plus any applicable costs due and owing and collected by the Treasurer pursuant to this Agreement, plus the greater of the following:

- (a) Simple interest, at the Tax Certificate Rate of Interest, accruing during the certificate interest period on the certificate purchase price, calculated in accordance with R.C. 5721.4; or
- (b) Six per cent of the certificate purchase price.

**“Closing Date”** means the date, as determined by the Seller but no sooner than 10 business days after the Effective Date, on which the Tax Certificates for the Sold Tax Liens transfer to Purchaser.

**“Determination Date”** means the date of a Determination Notice.

**“Determination Notice”** means the notice by which Seller notifies Purchaser that Tax Liens listed on a Schedule A. included with the notice. will be offered for sale in accordance with this Agreement

**“Excluded Liens”** means the Tax Liens for any Tax Year with respect to which (a) there is a County Payment Plan, (b) the Record Taxpayer has filed a claim in bankruptcy, (c) an application for exemption from real property taxation for the Certificate Parcel has been filed and is pending, (d) the Certificate Parcel is designated by a municipality for inclusion in its land bank, (e) the Certificate Parcel is considered forfeited land or is exempt from taxation, (f) the record owner of a Certificate Parcel qualifies under R.C. 323.122 for an extension of payment of real property taxes, (g) the Certificate Parcel has been fully redeemed and the Tax Lien has been satisfied

on or prior to the Closing Date, (h) the Certificate Parcel is subject to an environmental lien or enforcement action, (i) the Certificate Parcel has become subject to a tax foreclosure action or administrative tax deed procedure by the County, (j) the period of time in which such Tax Lien remains enforceable under law shall have expired, (k) it is reasonably determined by the Purchaser that the County is for any reason not lawfully entitled to sell such Tax Lien, interest has not lawfully accrued on such Tax Lien, or the Purchaser is not entitled to enforce the collection of such Tax Lien through a foreclosure action, (l) the Certificate Parcel becomes subject to a condemnation action or demolition lien filed by the County of Cuyahoga, Ohio, or any city or any other governmental agency within 24 months of the closing date, or (m) the County of Cuyahoga, Ohio, or any city or any other governmental agency has acquired title to the Certificate Parcel.

**“Financial Institution”** means a bank, insurance company, credit union, investment trust or other federally chartered lender or organization authorized to do business in the State as a place of deposit of funds, medium of savings, or for the granting of credit and lending of money, or their respective successors.

**“Fiscal Officer”** means the Fiscal Officer of the County.

**“Foreclosure Notice”** means either a Notice of Intent to Foreclose or a Request for Foreclosure, as applicable.

**“Notice of Intent to Foreclose”** or **“NOI”** means the notice of intent to foreclose a Tax Certificate as described in R.C. 5721.37, filed by Purchaser, Servicer, or an attorney on behalf of Purchaser or Servicer, which shall be valid for no more than 120 days.

**“Other Interested Party”** means any other person entitled to redeem the Tax Certificate.

**“Payment Plan”** means a plan to pay in installments real estate taxes, interest, costs, penalties and other charges due and payable with respect to a parcel of real property in the County entered into between the Purchaser and a Record Taxpayer pursuant to R.C. 5721.38(C)(2) following the transfer of the related Sold Tax Lien to the Purchaser and prior to the entry of a Decree of Foreclosure on the Certificate Parcel, which Payment Plan is administered by the Servicer.

**“Purchase Price”** means an amount, as reasonably determined by the Seller and the Buyer to be the Aggregate Tax value of the Sold Tax Liens on Schedule B as of a Closing Date, less any Adjustments; the Purchase Price shall be paid by Buyer to Seller in accordance with Section 2.3, below.

**“Purchaser’s Knowledge”** means the actual knowledge of James Beltz, Authorized

or through an electronic medium at the direction of the Seller, containing the information required by R.C. 5721.31 and prepared, transferred or redeemed in the manner prescribed by the Act.

**“Tax Certificate Parcel”** means a Certificate Parcel for which a Tax Certificate has been sold pursuant to this Agreement.

**“Tax Certificate Period”** means the three-year period during which the Tax Certificate is valid.

**“Tax Certificate Rate of Interest”** means 17.75% per annum calculated as simple interest in accordance with the provisions of R.C. 5721.41, except for Subsequent Liens, which will be at a rate of interest equal to eighteen percent (18%) per annum calculated at simple interest in accordance with the provisions of R.C. 5721.41.

**“Taxing District”** means any political subdivision of the State or other governmental district of the State having authority to levy taxes on the property in the district or issue bonds that constitute a charge against the property taxes of the district.

**“Tax Lien”** means the first lien held by the State and its Taxing Districts under R.C. 5721.10, as further described in R.C. 5721.35(A) and as evidenced for purposes of this Agreement by a Tax Certificate.

**“Tax Year”** or **“tax year”** means the calendar year during which a real estate tax becomes due and owing.

**“Treasurer's Fee”** means \$250.00 for each Tax Certificate for each Sold Tax Lien and \$100.00 for each Tax Certificate for each Subsequent Lien, sold pursuant to this Agreement.

[End of Article I]

## ARTICLE n

### **PURCHASE AND SALE OF LIENS; TERM OF AGREEMENT**

#### **2.1 Determination to Sell and Purchase Tax Liens.**

A. Seller may, periodically during the Certificate Purchase Period, determine to offer to sell Tax Liens in a bulk sale. All liens offered by the Seller during the Certificate Purchase Period shall be sold pursuant to R.C. 5721.33. Upon such determination, Seller shall issue Purchaser a Determination Notice.

B. Within 30 Business Days of receipt of a Determination Notice, Purchaser shall notify Seller of its intent to purchase all or a portion of the Tax Liens identified in the Schedule A included with the Determination Notice, on the Closing Date Specified in the Determination Notice.

#### **2.2 Agreement to Purchase Tax Liens.** Subject to the terms and conditions of this

or through an electronic medium at the direction of the Seller, containing the information required by R.C. 5721.31 and prepared, transferred or redeemed in the manner prescribed by the Act.

**“Tax Certificate Parcel”** means a Certificate Parcel for which a Tax Certificate has been sold pursuant to this Agreement.

**“Tax Certificate Period”** means the three-year period during which the Tax Certificate is valid.

**“Tax Certificate Rate of Interest”** means 17.75% per annum calculated as simple interest in accordance with the provisions of R.C. 5721.41, except for Subsequent Liens, which will be at a rate of interest equal to eighteen percent (18%) per annum calculated at simple interest in accordance with the provisions of R.C. 5721.41.

**“Taxing District”** means any political subdivision of the State or other governmental district of the State having authority to levy taxes on the property in the district or issue bonds that constitute a charge against the property taxes of the district.

**“Tax Lien”** means the first lien held by the State and its Taxing Districts under R.C. 5721.10, as further described in R.C. 5721.35(A) and as evidenced for purposes of this Agreement by a Tax Certificate.

**“Tax Year”** or **“tax year”** means the calendar year during which a real estate tax becomes due and owing.

**“Treasurer’s Fee”** means \$250.00 for each Tax Certificate for each Sold Tax Lien and \$100.00 for each Tax Certificate for each Subsequent Lien, sold pursuant to this Agreement.

[End of Article I]

## **ARTICLE II**

### **PURCHASE AND SALE OF LIENS; TERM OF AGREEMENT**

#### **2.1 Determination to Sell and Purchase Tax Liens.**

A. Seller may, periodically during the Certificate Purchase Period, determine to offer to sell Tax Liens in a bulk sale. All liens offered by the Seller during the Certificate Purchase Period shall be pursuant to R.C. 5721.33. Upon such determination, Seller shall issue Purchaser a Determination Notice.

B. Within 30 Business Days of receipt of a Determination Notice, Purchaser shall notify Seller of its intent to purchase all or a portion of the Tax Liens identified in the Schedule A included with the Determination Notice, on the Closing Date Specified in the Determination Notice.

#### **2.2 Agreement to Purchase Tax Liens.** Subject to the terms and conditions of this

Agreement and pursuant to the Act, Seller hereby agrees, during the Certificate Purchase Period, to transfer, sell, assign and convey to Purchaser the Sold Tax Liens including, without limitation and to the extent permitted by State law: (i) all right, title and interest of the State and its applicable Taxing Districts in and to the Sold Tax Liens, and (ii) all of Seller's collection rights and remedies, including the right to foreclose any such tax lien, on the Closing Date, without recourse, representation or warranty, except as expressly provided herein. Purchaser hereby agrees to purchase the Sold Tax Liens on the Closing Date, without recourse, representation or warranty, except as expressly provided herein. The sale and purchase of the Sold Tax Liens shall be evidenced by Seller's issuance of Tax Certificates for the Sold Tax Liens to Purchaser.

2.3 Purchase Price. In consideration for the transfer and sale of the Sold Tax Liens by the Seller to the Purchaser, the Purchaser shall pay the Purchase Price to the Seller, no later than 4:30 p.m. eastern time on the Closing Date.

2.4 Purchase of Subsequent Liens.

A. During the 12-month period following the Closing Date, Seller agrees to sell, assign and convey to Purchaser, and Purchaser hereby agrees to purchase, Tax Certificates for the Subsequent Tax Liens in accordance with this Section 2.4. No Tax Certificates for Subsequent Liens will be sold during the months of January, June, or December.

B. Seller shall give Purchaser notice, in accordance with R.C. 5721.42, when Tax Certificates for Subsequent Liens are available for purchase, including the parcels and amounts available to purchase (a "Subsequent Lien Notice"). Purchaser shall notify Seller of its intent to purchase each such Tax Certificate for a Subsequent Tax Lien within 15 days of Purchaser's receipt of a Subsequent Lien Notice. Tax Certificates for Subsequent Liens must be purchased within 30 days of Purchaser's receipt of a Subsequent Lien Notice.

C. During the 12-month period following the Closing Date, Tax Certificates for Subsequent Tax Liens shall be sold at the applicable Certificate Purchase Price unless the property is subject to a Payment Plan, any Tax Lien for the Certificate Parcel is an Excluded Lien, the Certificate Parcel is subject to a pending bankruptcy, any Tax Certificate for the Certificate Parcel is in foreclosure, or the Subsequent Tax Lien is greater than 150% of the Tax Certificate.

2.5 Term of Agreement The term of this Agreement ("Term") shall commence on the Effective Date and shall terminate on the later of the date on which all of the Sold Tax Liens acquired by Purchaser pursuant to this Agreement are either: a) redeemed by the Record Taxpayer in accordance with Article III hereof; b) repurchased by Seller in accordance with Article IV hereof; c) foreclosed in accordance with Article X hereof; or d) no longer controlled by Purchaser.

[End of Article II]

### **ARTICLE III**

#### **Servicing**

3.1 Payment Plans. Purchaser, via the Servicer shall permit the Record Taxpayer or Other

Interested Party to enter into a Payment Plan for the redemption of a Tax Certificate at any time after purchasing the Tax Certificate and prior to the entry of a Decree of Foreclosure with respect to the Tax Certificate unless otherwise agreed by Purchaser and Seller. Such Payment plan shall require the Record Taxpayer or Other Interested Party to pay the Certificate Redemption Price and Purchaser's actual fees and costs incurred, in installments, with the last installment due no later than the last date of the Tax Certificate Period. Neither the Purchaser nor the Servicer shall file a Foreclosure Notice for any Tax Certificate while the Record Taxpayer is making timely payments in accordance with a Payment Plan and has not otherwise defaulted on such plan. Purchaser, via the Servicer, may at any time, by written notice to the Treasurer, agree to accept installments collected to the date of such notice as payment in full, and such notice shall constitute satisfaction of the Payment Plan and Redemption of the Tax Certificate. All payments made pursuant to a Payment Plan after the Closing Date shall be made directly to the Purchaser. The administration of this activity shall be the responsibility of the Servicer.

3.2 Notice. Purchaser, via the Servicer, shall notify each Record Taxpayer within 60 days following the Closing Date, and every 90 days thereafter, of the sale of the applicable Tax Certificate(s) until: (i) the Tax Certificate has been redeemed, (ii) the Record Taxpayer or Other Interested Party has entered into a Payment Plan, (iii) the Purchaser, via the Servicer, has filed Foreclosure Notice in accordance with Article IX, below or (iv) four notices have been sent; such notices shall not be sent to a Record Taxpayers or Other Interested Party who has redeemed a Tax Certificate or is party to, and in compliance with, a Payment Plan.

A. The notice required under this Section 3.2 shall be in a form approved by the Seller and shall include the amount due on the Tax Certificate and payment options available to the Record Taxpayer or Other Interested Party.

B. The notices shall be sent to the Record Taxpayer or Other Interested Party by the Servicer via first-class mail to both the address of the Certificate Parcel in the County Fiscal Officer's records and the tax mailing address maintained by the Treasurer if different from the address of the Certificate Parcel. Upon proof of posting of such notice reasonably satisfactory to Seller, Seller shall add \$25.00 the Certificate Redemption Price.

3.3 Collection of Payments. The Certificate Redemption Price may be paid in full at either the office of the Treasurer or directly to Purchaser at File 1558, 1801 W. Olympic Blvd., Pasadena, CA 91199-1558 or by wire using the instructions as set forth on the attached Schedule for Remittances, or as may otherwise be directed in writing by Purchaser to Seller. Payments in full made at the office of the Treasurer will be transmitted to the Purchaser once each week. Installment payments for Payment Plans shall be made to the Purchaser. The Purchaser shall provide a report of all partial payments quarterly or upon request by the Seller. Upon Purchaser filing a Foreclosure Notice, the Treasurer will require a release from Purchaser stating that all outstanding foreclosure fees have been paid and that the Record Taxpayer is eligible to redeem the Tax Certificate.

3.4 **Customer Service.** Following the issuance of a Tax Certificate but prior to. Purchaser filing a Foreclosure Notice, the Treasurer's office will respond to all inquiries regarding the Tax Certificates. Upon the filing of a Foreclosure Notice, the Servicer or the attorney filing the Foreclosure Notice shall

respond to all inquiries from the Record Taxpayer; such response shall be provided to the Record Taxpayer within two Business Days of receipt thereof.

A. Throughout the Term, the Servicer shall maintain an office in Cuyahoga County, and shall provide a local or toll free, live phone line to either the office of the Servicer or the attorney filing the Foreclosure Notice, as applicable, for the purpose of receiving inquiries from the Record Taxpayer, which phone line shall be in operation all Business Days between the hours of 8:30 a.m. and 4:30 p.m., eastern time.

B. Purchaser or Servicer shall, as applicable, respond to any inquiry from the Cuyahoga County Land Reutilization Corporation or any municipality in which a Certificate Parcel is located regarding the applicability of any provision of this Agreement to such Certificate Parcel, within seven Business Days of receipt of said inquiry.

**3.5 Rights and Obligations Non-Transferable.** By entering into this Agreement, the Seller is expressly relying on the fact that the Servicer is experienced in the management and servicing of bulk tax lien portfolios throughout Ohio and elsewhere, and has the necessary in-house staff, resources, knowledge, training, and experience to perform the noticing, payment plan, and customer service obligations as set forth in this Agreement in a courteous, professional, and statutorily compliant manner. Therefore, the rights and obligations of the Servicer under this Agreement shall be personal only as to them and may not be sold, assigned, transferred, or performed without the express written consent of the Seller, which consent shall not be unreasonably withheld.

**3.6 Reporting.** Throughout the Term, Servicer shall provide the Treasurer with monthly reports, due to Seller no later than the fifteenth day of the following month, detailing the following during the previous 30-day period:

- (i) number of certificates redeemed;
- (ii) number of Payment Plans offered to Record Taxpayers;
- (iii) number of Payment Plans entered into between Purchaser and Record Taxpayers, including the duration of such plans;
- (iv) number of NOIs;
- (v) number of inquiries received and responded to under Section 3.4.B, above; and
- (vi) such other information as reasonably requested by Seller.

[End of Article III]

**ARTICLE IV**  
**Repurchase of Tax Certificate; Void Tax Certificates**

At any time subsequent to the Closing Date, Seller may determine that a Tax Certificate is void or, in Seller's sole discretion, cancel or otherwise reverse the sale of any Tax Certificate in accordance with R.C. 5721.34(B). The Parties acknowledge, understand, and agree that the Treasurer will not substitute any Tax Certificate for any Tax Certificate voided under this Article IV.

[End of Article IV]

**ARTICLE V**  
**Negotiated Rate For Private Attorney's Fees**

Notwithstanding any more permissive provisions of the Ohio Revised Code, Purchaser may charge a Record Taxpayer upon redemption of a Tax Certificate, as and for attorney's fees in accordance with the following schedule, unless otherwise authorized by court order:

1. Upon issuance of a Foreclosure Notice until the filing of a foreclosure action, up to \$1,000.00, plus costs.
2. Upon service of notice of the filing of an action in foreclosure for each Certificate Parcel and until the filing of a Dispositive Motion, up to \$ 1,500.00, plus costs.
3. Upon the filing of a Dispositive Motion and until the entry of a Decree of Foreclosure, up to \$1,900.00, plus costs.
4. Upon entry of a Decree of Foreclosure and until Confirmation of Sheriffs Sale or Forfeiture, up to \$2,250.00.

[End of Article V]

**ARTICLE VI**  
**Dispute Resolution**

A. In the event of any dispute or disagreement between Parties, either with respect to the interpretation of any provision of this Agreement or with respect to the performance by any Party hereunder, which cannot be resolved in the normal course of business, then upon written notice of a Party in accordance with Section 12.1, below (a "Dispute Notice"), the Parties will each appoint a designated representative whose task it will be to meet for the purpose of endeavoring in good faith to resolve such Dispute Notice or to negotiate for an adjustment to such provision of this Agreement consistent with Ohio Revised Code Chapter 5721. The designated officers shall meet as often as the Parties reasonably deem necessary in order to gather and furnish to the other all information with respect to the Dispute Notice. Such officers will discuss the problem and/or negotiate the applicable section or provision without the necessity of any formal proceedings relating thereto. During the course of such negotiation, all reasonable requests made by one Party to the other for information will be honored in order that each of the Parties may be fully advised in the negotiations. The specific format for such discussions will be left to the discretion of the designated officers but may include the preparation of agreed upon statements of fact or written statements of position furnished to the other Party.

B. No formal legal proceedings relating to any such dispute may be commenced until (i) 60 days has passed from the Dispute Notice without resolution, or (ii) any Party concludes in good faith that amicable resolution through continued negotiation of the matter in issue does not appear

likely and so notifies the other party in writing (a "Final Notice"). Upon satisfaction of this Article and the conditions described in (i) or (ii) above, each Party is free to pursue any remedy available to it in law or equity, each bearing its own costs.

C. In the event either Party fails to perform its obligations under this Agreement and such failure continues for a period of 30 days following Final Notice by a non-breaching Party, a non-breaching Party may terminate this Agreement effective immediately by giving written notice thereof.

D. The rights and obligations of the Parties under this Article VI shall not limit a Party's right to seek immediate injunctive relief to prevent a material breach of this Agreement by either other Party or limit a Party's right to terminate this Agreement as may be otherwise permitted hereunder.

[End of Article VI]

**ARTICLE VII**  
**Assignment of Sold Tax Liens**

A. Subject to paragraph B of this Article VII, Purchaser may, during the Term, upon Seller's written approval, which approval shall not be unreasonably withheld, assign ownership of any Tax Certificate to any person or any entity which is not wholly owned by Purchaser or an existing affiliate of Purchaser provided that, to Purchaser's Knowledge, such assignee: (i) does not own any real property in Cuyahoga County with delinquent taxes; (ii) is not the Record Taxpayer of the Certificate Parcel; and (iii) is not a corporation, partnership, or association in which the Record Taxpayer of the Certificate Parcel has an interest. In the event of an assignment under paragraph A of this Article VII, the Servicer shall continue to perform the duties set forth in Article III of this Agreement. Seller shall charge a fee of \$20.00 for each Tax Certificate so assigned, except where such assignment only changes or removes the name of a lender or other secured party. Assignment to any entity wholly owned by Purchaser may be done without Seller's written approval. Any assignee shall be bound by the terms and conditions of the Agreement and shall comply with the requirements of the Act including, without limitation, R.C. 5721.36.

B. The provisions of this Article VII shall not apply to any assignment to a Financial Institution solely for purposes of perfecting a security interest in any Tax Certificate, provided that Purchase shall promptly give Seller notice of any such assignment under this paragraph B.

[End of Article VII]

**ARTICLE VIII**  
**Forfeiture**

A. In the event a Certificate Parcel is forfeited to Purchaser or its assigns pursuant to R.C. 5721.40, the Certificate Parcel shall be transferred by Sheriff's deed to the Purchaser absolutely free and clear of all liens and encumbrances except for those specifically listed in R.C. 5721.40. The Treasurer's Tax Duplicate shall be adjusted to reflect such transfer upon issuance of said Sheriff's deed.

B. Upon transfer of a Certificate Parcel that is an Abandoned Property, in accordance with this Article VIII, Purchaser shall diligently comply with all applicable laws of the jurisdiction in which the Certificate Parcel is located ("Local Requirements") including, without limitation, maintaining a Certificate Parcel owned by Purchaser in accordance such Local Requirements.

C. Seller shall notify Purchaser, in writing, of Purchaser's failure to maintain a transferred Certificate Parcel owned by Purchaser in accordance with Local Requirements (a "Maintenance Notice"). Purchaser shall bring the parcel that is the subject of the Maintenance Notice into compliance with the Local Requirements within 30 days of Purchaser's receipt of the Maintenance Notice; provided that Seller may extend such 30-day period where Purchaser cannot attain compliance within said 30-day period but has commenced such compliance efforts within said 30-day period and is diligently pursuing same.

D. Where Purchaser fails to comply with paragraphs B & C of this Article VIII:

- (i) Seller may, in Seller's reasonable discretion and at any time during the Term, require Purchaser to post a bond on specified Certificate Parcel, either with Seller, the jurisdiction in which the subject Certificate Parcel is located, or such other entity deemed appropriate by Seller, in an amount as reasonably determined by Seller, to guaranty Purchaser's performance under this paragraph B, or
- (ii) subject to Article XI hereof, declare Purchaser in default under this Agreement.

E. Any bond that may be required under Section D of this Article VIII shall be in a form reasonably acceptable to the Treasurer, as follows:

1. In the case of a specified Certificate Parcel that is unimproved, such bond shall be in an amount equal to one year of special assessments that may be applied to the Certificate Parcel for grass cutting and other yard maintenance, as shall be reasonably determined by the Treasurer in consultation with the jurisdiction in which the Certificate Parcel is located, but not to exceed \$500.00, and shall be effective until the later of: a) expiration of the

applicable Tax Certificate Period, b) proof, reasonably acceptable to the Treasurer, that the Local Requirements have been complied with, c) one year from the date of the Maintenance Notice or d) until such time that the Purchaser no longer controls the specified Certificate Parcel.

2. In the case of a specified Certificate Parcel that includes any improvements, such bond shall be in an amount equal to the cost, as reasonably determined by the Treasurer, but not to exceed \$7,500, of demolition of such improvements, and shall be effective until the earlier of: a) expiration of the applicable Tax Certificate Period, b) proof, reasonably acceptable to the Treasurer, that the Local Requirements have been complied with or c) until such time that the Purchaser no longer controls the specified Certificate Parcel.

3. Any such bond must be issued by a surety company authorized to do business in the State of Ohio, with an A.M. Best's rating of A or higher, in the name of the Purchaser. The bond shall be accompanied by a certified power of attorney and a certificate of compliance from the surety for the State of Ohio, and signed by an authorized representative of the surety.

[End of Article VIII]

## **ARTICLE IX** **Foreclosure**

A. Purchaser may, after one year from the date a Tax Certificate is sold, as stated therein, and prior to expiration of the Tax Certificate Period, file with Seller a Foreclosure Notice for any Tax Certificate eligible to be enforced and not otherwise void under R.C. 5721.381. Purchaser shall not foreclose on any Tax Certificate without first filing a Notice of Intent to Foreclose as required herein and under R.C. 5721.37.

B. Upon filing a Foreclosure Notice, Purchaser shall submit to Seller:

1. the Certificate Redemption Prices of all outstanding Tax Certificates that have been sold on the Tax Certificate Parcel, other than Tax Certificates held by Purchaser;

2. any taxes, assessments, penalties, interest, and charges appearing on the tax duplicate charged against the Tax Certificate Parcel that is the subject of the Foreclosure Notice and that are not covered by a Tax Certificate; and

3. if filing a Request for Foreclosure, a fee in the amount prescribed by the county prosecuting attorney to cover the prosecuting attorney's legal costs incurred in the foreclosure proceeding (no fee is required if utilizing a private attorney).

C. Purchaser shall file a complaint to foreclose on the Tax Certificate not later than 120 days after the Notice of Intent to Foreclose is certified by the Treasurer. If Purchaser fails to file a complaint to foreclose within said 120 day period and the expiration date of the Tax Certificate Period has passed: (i) the lien of such Tax Certificate is cancelled, (ii) such Tax Certificate is voided, and (iii) Purchaser forfeits the payments submitted to Seller in accordance with

paragraph B of this Article IX.

D. Purchaser shall diligently prosecute the foreclosure proceeding to final judgment and satisfaction in accordance with 5721.37.

E. If Purchaser fails to file a Foreclosure Notice prior to expiration of the Tax Certificate Period, the lien of the Tax Certificate is cancelled and the Tax Certificate is voided.

F. Prior to filing a Notice of Intent to Foreclose for any Abandoned Property, Purchaser shall confer with a representative of the jurisdiction in which the Certificate Parcel is located to obtain any relevant information regarding the Certificate Parcel.

[End of Article IX]

ARTICLE X  
Representations And Warranties

10.1 Representations And Warranties Of The Seller. The Seller hereby represents and warrants to the Purchaser and to the Servicer, all of which representations and warranties are true, complete and correct in all respects, to the best of the Treasurer's knowledge and belief, as of the date hereof and as of the Closing Date, as follows:

A. The Seller is the sole owner of, and possesses full right, title and interest in and to, each of the Sold Tax Liens and that the Sold Tax Liens are valid and enforceable and the Seller has the authority to sell the Sold Tax Liens; the Seller further Warrants that all of the Sold Tax Liens comply with all applicable existing laws, rules, regulations, ordinances, orders, judgments and decrees relating to the Seller's ownership and sale of the Sold Tax Liens, including, but without limitation, timely issuance of proper notice to the proper parties.

B. Such Sold Tax Liens and all interest and rights therein, including all rights to enforce the liens under Ohio law are freely assignable to the Buyer and the Buyer has the right to further assign said liens.

C. All prerequisite approvals for the entry of this agreement have been properly obtained.

D. The Seller has full power and authority to enter into and perform this Agreement and all governmental action necessary to authorize the execution and delivery of this Agreement and the performance by the Seller of its obligations hereunder has been duly taken. This Agreement has been duly executed by the Seller and constitutes the legal, valid, binding and enforceable obligation of the Seller, enforceable against the Seller in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization, receivership, moratorium or other laws relating to or affecting the rights of creditors and governmental bodies generally or by general principles of law or equity.

E. The delivery by the Seller of the Agreement and the performance by the Seller of the obligations hereunder will not conflict with any provision of any law or regulation to which the Seller is subject and will not conflict with, result in a breach of or constitute a default under any of the terms, conditions or provisions of any other document, agreement or instrument to which the Seller is a party

or by which it or any of its properties are bound, or any order or decree applicable to the Seller.

F. There is no action, suit, claim or proceeding pending or threatened against the Seller, whether at law or in equity, before any court or by or before any other governmental commission, board, bureau, agency or instrumentality that, if determined adversely to the interests of the Seller, could have a material adverse effect upon the ability of the Seller to perform its obligations hereunder, or the ability of the Purchaser or Servicer to enforce the Tax Certificates.

G. Each Tax Certificate secures the obligation to pay the Certificate Redemption Price.

10.2 Representations, Warranties And Covenants Of The Purchaser. The Purchaser hereby represents, warrants and covenants to the Seller, all of which representations, warranties and covenants are true, complete and correct in all respects as of the date hereof, to the best of Purchaser's Knowledge and belief, as of the Closing Date, as follows:

A. Purchaser is a limited liability company duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation. Purchaser is duly qualified in the State to do business as contemplated in this Agreement, and in each other jurisdiction where property is owned, leased or used by it or the conduct of its business makes such qualification necessary.

B. Purchaser has full power and authority to enter into and perform this Agreement and all action necessary to authorize the execution and delivery of this Agreement and the performance by Purchaser of its obligations hereunder has been duly taken. This Agreement has been duly executed by Purchaser and constitutes the legal, valid, binding and enforceable obligation of Purchaser, enforceable against Purchaser in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization, receivership, moratorium or other laws relating to or affecting the rights of creditors generally, or by general principles of equity.

C. No authorization, consent or approval of, notice to, or filing with, any public body or governmental authority or any other person or entity is necessary in connection with the execution and delivery by Purchaser of this Agreement or the performance by Purchaser of its obligations hereunder, except for notices expressly provided in this Agreement.

D. The execution and delivery of this Agreement and the performance of its obligations hereunder by Purchaser will not conflict with any provision of any law or regulation to which Purchaser is subject, or conflict with, result in a breach of or constitute a default under any of the terms, conditions or provisions of any other agreement or instrument to which the Purchaser is a party or by which it is bound, including without limitation promissory notes, mortgages, security agreements, loan instruments, leases, covenants, conditions, easements, rights-of-way, franchises, permits, licenses, contracts and agreements, or any order or decree applicable to Purchaser, or result in the creation or imposition of any lien on any of Purchaser's assets or property.

E. There is no action, suit, claim or proceeding pending or threatened against die Purchaser, whether at law or in equity, before any court or by or before any other governmental

commission, board, bureau, agency or instrumentality that, if determined adversely to the interests of the Purchaser, would materially. adversely affect the ability of the Purchaser to perform its duties or obligations incurred pursuant to this Agreement.

F. Purchaser is not subject to an “unresolved” finding for recovery under Ohio Revised Code Section 9.24. If this representation and warranty is deemed to be false, this Agreement is void *ab initio*, and Purchaser shall make the County whole for any damages sustained by the County.

G. The Purchaser agrees that in the event Purchaser does choose to resell, transfer, assign or convey any interest in the Sold Tax Liens, any such further resale, transfer, assignment or conveyance shall be in compliance with applicable laws and this Agreement.

H. The Purchaser's source of funds, if any, for financing the Transactions are lawful and exempt from the application of any civil forfeiture provision of any state or federal law with respect to funds derived from a criminal enterprise.

I. No proceedings by or against the Purchaser have been threatened or commenced in bankruptcy or for reorganization, liquidation or for readjustment of debts under the Bankruptcy Code or any other law, whether state or federal, nor has the Purchaser made an assignment for the benefit of the creditors, admitted in writing the inability to pay debts generally as they become due, or filed or had filed against it any action seeking an order appointing a trustee or receiver of all or a substantial part of the property of the Purchaser.

J. The Purchaser has and will comply with the Act and all applicable laws in carrying out its obligations under this agreement.

K. For a period of seven years subsequent to the Closing Date, if the Purchaser has actual knowledge of a breach of any of the representations and warranties made by the Purchaser contained herein, the Purchaser shall give prompt written notice of same to the Seller and the Servicer.

L. Purchaser does not own any property in Cuyahoga County with delinquent taxes.

10.3 Representations, Warranties And Covenants Of The Servicer. The Servicer hereby represents, warrants and covenants to the Seller, all of which representations, warranties and covenants are true, complete and correct in all respects as of the date hereof, to the best of Servicer's Knowledge and belief and as of the Closing Date, as follows:

A. Servicer is a limited liability company duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation. Servicer is duly qualified in the State to do business as contemplated by the Agreement, and in each other jurisdiction where property is owned, leased, or used by it, or the conduct of its business makes such qualification necessary.

B. Servicer has full power and authority to enter into and perform this Agreement and all action necessary to authorize the execution and delivery of this Agreement and the performance by Servicer of its obligations hereunder has been duly taken. This Agreement has been duly executed by Servicer and constitutes the legal, valid, binding and enforceable obligation of Servicer, enforceable against Servicer in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization, receivership, moratorium or other laws relating to or affecting

the rights of creditors generally, or by general principles of equity.

C. No authorization, consent or approval of, notice to, or filing with, any public body or governmental authority or any other person or entity is necessary in connection with the execution and delivery by Servicer of this Agreement or the performance by Servicer of its obligations hereunder, except for notices expressly provided in this Agreement.

D. The execution and delivery of this Agreement and the performance of its obligations hereunder by Servicer will not, to the best of its knowledge, conflict with any provision of any law or regulation to which Servicer is subject, or conflict with, result in a breach of or constitute a default under any of the terms, conditions or provisions of this Agreement, or any other agreement or instrument to which the Servicer is a party or by which it is bound, including without limitation promissory notes, mortgages, security agreements, loan instruments, leases, covenants, conditions, easements, rights-of-way, franchises, permits, licenses, contracts and agreements, or any order or decree applicable to Servicer, or result in the creation or imposition of any lien on any of Servicer's assets or property.

E. There is no action, suit, claim or proceeding pending or threatened against the Servicer, whether at law or in equity, before any court or by or before any other governmental commission, board, bureau, agency or instrumentality that, if determined adversely to the interests of the Servicer, would materially adversely affect the ability of the Servicer to perform its duties or obligations incurred pursuant to this Agreement.

F. Servicer is not subject to an "unresolved" finding for recovery under Ohio Revised Code Section 9.24. If this representation and warranty is deemed to be false, this Agreement is void *ab initio*, and Servicer shall make the County whole for any damages sustained by the County.

G. Servicer agrees that in the event Servicer does choose to resell, transfer, assign or convey any interest in or pertaining to the Sold Tax Liens, any such further resale, transfer, assignment or conveyance shall be in compliance with applicable laws and this Agreement.

H. The Servicer's source of funds, if any, for financing the Transactions are lawful and exempt from the application of any civil forfeiture provision of any state or federal law with respect to funds derived from a criminal enterprise.

I. No proceedings by or, to the knowledge of the Servicer, against the Servicer have been threatened or commenced in bankruptcy or for reorganization, liquidation or for readjustment of debts under the Bankruptcy Code or any other law, whether state or federal, nor has the Servicer made an assignment for the benefit of the creditors, admitted in writing the inability to pay debts generally as they become due, or filed or had filed against it any action seeking an order appointing a trustee or receiver of all or a substantial part of the property of the Servicer.

J. The Servicer has and will comply with the Act and all applicable laws in connection with the management and/or servicing of Tax Certificates.

K. For a period of seven years subsequent to the Closing Date, if the Servicer has actual

knowledge of a breach of any of the representations and warranties made by the Servicer contained herein, the Servicer shall give prompt written notice of same to the Seller and the Purchaser.

L. Servicer does not own any property in Cuyahoga County with delinquent taxes. [End of Article X]

## **ARTICLE XI** **Default and Remedies**

### **11.1 Default.**

A. If the Purchaser breaches any of its representations, warranties or covenants made hereunder, does not comply with any of its duties and obligations hereunder or is otherwise not in compliance with this Agreement, the Purchaser shall be in default hereunder and the Seller and Servicer shall each have the right to exercise any rights that it may have pursuant to the terms of this Agreement, in law or equity with respect to such breach or noncompliance by the Purchaser.

B. If the Seller breaches any of its representations, warranties or covenants made hereunder, does not comply with any of its duties and obligations hereunder or is otherwise not in compliance with this Agreement, the Seller shall be in default hereunder and the Purchaser and Servicer shall each have the right to exercise any rights that it may have pursuant to the terms of this Agreement, in law or equity with respect to such breach or noncompliance by the Seller.

C. If the Servicer breaches any of its representations, warranties or covenants made hereunder, does not comply with any of its duties and obligations hereunder or is otherwise not in compliance with this Agreement, the Servicer shall be in default hereunder and the Seller and Purchaser shall each have the right to exercise any rights that it may have pursuant to the terms of this Agreement, in law or equity with respect to such breach or noncompliance by the Servicer.

D. Before Purchaser and Servicer are in default under any term of this Agreement, the County shall give Purchaser and Servicer written notice thereof, which notice shall set forth a reasonable description of the acts or omissions which are the basis of the claimed default (“Notice of Default”)- Within thirty (30) days of the receipt of the Notice of Default, Purchaser and Servicer will provide the County with written plans to be implemented to eliminate such claimed default and a time schedule for completion thereof. The period to remove the claimed default will be automatically extended for additional reasonable periods of time if Purchaser and Servicer are reasonably pursuing all acts and deeds necessary to cure the claimed default (“Cure Period”). During the Cure Period, Purchaser and Servicer shall not be in default under this Agreement.

### **11.2 Remedies.**

A. Subject to Article VI hereof, in the event of a breach by any Party hereunder, the non-breaching Party or Parties, shall each have the right to exercise any rights that it may have pursuant to the terms of this Agreement, in law or equity with respect to such breach or noncompliance, including termination of this Agreement. Specifically, and without limitation, upon default by Purchaser, Seller may cancel or otherwise reverse the sale of any or all Tax Certificates in accordance with Article IV hereof, provided that no interest shall be paid on any such Tax Certificates under paragraph B of said Article IV.

B. The remedies provided for in this Agreement shall be cumulative, and shall not preclude assertion by any party of any other rights or the seeking of any other remedies against any other party and shall not limit the right of any party hereto to take any other action available at law or in equity.

[End of Article XI]

## **ARTICLE XII Miscellaneous**

**12.1 Notice.** Wherever a party is required or permitted to give notice to the other pursuant to this Agreement, such notice shall be in writing and shall be deemed delivered when delivered personally or, if delivered via certified mail with return receipt requested or via overnight courier with signature required, when the return receipt is either signed or refused, and addressed as follows:

In the case of the County: Cuyahoga County Treasurer  
1219 Ontario Street, First Floor Cleveland,  
Ohio 44113 Attn: Kristy Neff

With a copy to: Cuyahoga County Law Department  
1219 Ontario Street, Fourth Floor  
Cleveland, Ohio 44113 Attn: Director

And

Office of the Cuyahoga County Prosecutor  
The Justice Center, Courts Tower  
1200 Ontario Street, 9<sup>th</sup> Floor  
Cleveland, Ohio 44113 Attn:  
Chief, Foreclosure Unit

In the case of Purchaser: Woods Cove III, LLC  
File 1558  
1801 W. Olympic Blvd.  
Pasadena, CA 91199-1558 Attn:  
Harry Chung

In the case to Servicer: Lien Servicing, LLC  
700 N. Valley St. B #28298  
Anaheim, CA 92801 Attn: Steven  
Schreiber

Either party may from time to time change its designated recipient or address for notification purposes by giving the other party written notice of the new designated recipient or address and the date upon which it will become effective.

**12.2 Benefit of Agreement.** The provisions contained in this Agreement are solely for the benefit of the parties hereto, and nothing in this Agreement whether express or implied, shall be construed to

give to any other Person any legal or equitable right, remedy or claim under or in respect of this Agreement or any covenants, conditions or provisions contained herein. This Agreement and all of the rights and obligations hereunder shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

**12.3 Severability.** If any one or more of the provisions or terms of this Agreement shall be held invalid for any reason whatsoever, then such provisions or terms shall be ineffective to the extent of such invalidity or unenforceability, shall be deemed void and severable from the remaining provisions and terms of this Agreement and shall not affect the validity or enforceability of such other provisions or terms herein.

**12.4 Amendments; Waivers.** This Agreement may be amended or terminated only by a writing signed by all parties hereto. Compliance with any provision hereof may not be waived by the Purchaser, the Seller, or the Servicer unless such amendment or waiver is consented to in writing by the Purchaser, the Seller, and by the Servicer. No delay or omission by either party in the exercise of any right or power shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the parties of any of the covenants, conditions or agreements to be performed by the other or any breach thereof shall not be construed to be a waiver of any succeeding breach thereof or of any other covenant, condition or agreement herein contained. No change, waiver, or discharge hereof shall be valid unless in writing and signed by an authorized representative of the party against which such change, waiver, or discharge is sought to be enforced.

**12.5 Governing Law; Forum.** This Agreement and all questions relating to its validity, interpretation, performance and enforcement shall be governed by and construed, interpreted and enforced in accordance with the laws of the State of Ohio. Any suit, action, or proceeding brought under this Contract shall be in a state or federal court of competent jurisdiction located in Cleveland, Ohio, and the Parties agree to the exclusive jurisdiction and venue of such court to resolve same.

**12.6 Counterparts.** This Agreement may be executed and delivered and in any number of counterparts, and such counterparts taken individually shall be sufficient to constitute the whole of this Agreement and taken together shall constitute one and the same instrument.

**12.7 Interpretation.** The Article headings of this Agreement are for convenience of reference only and do not form a part hereof and do not in any way modify, interpret, or construe the intentions of the parties. As the context of this Agreement may require, terms in the singular shall include the plural (and vice versa) and the use of feminine, masculine or neuter genders shall include each other. Wherever the word “including” or any variation thereof is used herein, it shall mean “including, without limitation,” and shall be construed as a term of illustration, not a term of limitation. Wherever the word “or” is used herein, it shall mean “and/or.” The words “herein,” “hereof,” “hereunder,” “hereby,” “this Agreement” and other similar references shall be construed to mean and include this Agreement and all amendments and supplements hereto unless the context clearly indicates or requires otherwise.

**12.8 Survival.** The entire Agreement, including all representations, warranties, guarantees, and indemnifications of the Seller, the Purchaser and the Servicer set forth in this Agreement and in any

certificate, agreement, or instrument delivered in connection with the transactions contemplated hereby, shall survive the Closing Date.

**12.9 Entire Agreement.** This Agreement, including any Exhibits and documents referred to herein or attached hereto, each of which is incorporated herein, constitutes the entire and exclusive statement of the agreement between the parties with respect to its subject matter and there are no oral or written representations, understandings or agreements relating to this Agreement which are not fully expressed herein. The parties agree that any other terms or conditions included in any quotes, acknowledgments, or other forms utilized or exchanged by the parties shall not be incorporated herein or be binding unless expressly agreed upon in writing by authorized representatives of the parties. In the event of a conflict between this document and any Exhibit attached hereto, or hereinafter agreed to by the parties, the terms of this document shall control.

**12.10 County Ordinances.** All County contracts are subject to all applicable County ordinances, including, but not limited to, the Cuyahoga County Ethics Ordinance, Cuyahoga County Inspector General Ordinance, and Cuyahoga County Contracting and Purchasing Procedures Ordinance. Copies of County ordinances are publicly available on the County Council's web site at <http://council.cuyahogacounty.us/>.

**12.11 Public Records.** All parties hereto acknowledge that the County is a political subdivision of the State of Ohio and as such is subject the R.C. and other law related to the keeping and access to Public Records, including any and all applicable Sunshine Laws, open meeting requirements, and retention schedules.

**12.12 Indemnification.** Purchaser and Servicer, jointly and severally, shall indemnify and save the County harmless from any damages finally awarded from suits or actions of every nature and description brought against the County by third parties, for or on account of any injuries or damages received or sustained by a party (or parties) from any act or omission of Purchaser or Servicer, their servants or agents, that arises out of their performance under this Agreement. Purchaser and Servicer acknowledge, understand and agree that as an Ohio political subdivision, the County does not indemnify any person or entity, and each agree that no provision of this Agreement or any other contract or agreement between Purchaser and the County or Servicer and the County may be interpreted to obligate the County to indemnify or defend Purchaser, Servicer, or any other party. County will cooperate with Purchaser and Servicer in connection with any defense without cost and Purchaser and Servicer shall have the right to compromise and settle such claims on terms satisfactory to them.

**12.13 Assignment.** Except as provided for in Article VII, Purchaser shall not assign, transfer, convey or otherwise dispose of this Agreement or its rights, title or interest in or to it or any part thereof, or assign, by power of attorney or otherwise, any of the monies due or to become due under this Agreement without approval of the County.

**12.14 Executive Order 02011\*0002 regarding Signature Authority.** By entering into this Agreement, Purchaser and Servicer agree, on behalf of their officers, employees, subcontractors, subgrantees, agents, and assigns, that this transaction may be executed on behalf of the County

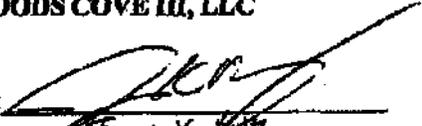
pursuant to Cuyahoga County Executive Order 02011-0002. Copies of all County Executive Orders are publicly available on the County Executive's web site at <http://executive.cuyahogacounty.us>.

**12.15 Electronic Signatures; Execution.** By entering into this Agreement, Purchaser agrees on behalf of the contracting business entity, its officers, employees, subcontractors, subgrantees, agents or assigns, that this transaction may be conducted by electronic means and agreeing that all documents requiring county signatures may be executed by electronic means and that the electronic signatures affixed by the County to said documents shall have the same legal effect as if the signature was manually affixed to a paper version of the document. Purchaser also agrees on behalf of the aforementioned entities and persons to be bound by the provisions of chapters 304 and 1306 of the R.C. as they pertain to electronic transactions, and to comply with the electronic signature policy of Cuyahoga County. Delivery of an executed signature page to this Agreement, by facsimile transmission shall be as effective as delivery of a manually signed counterpart of this Agreement.

[End of Article XII]

IN WITNESS WHEREOF, the Purchaser, Seller, and Servicer have caused this Agreement to be duly executed and delivered as of the Effective Date.

**PURCHASER:  
WOODS COVE III, LLC**

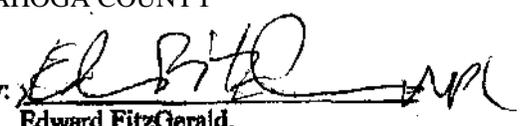
By: 

Title: Authorized Person

**SERVICER:  
LIEN SERVICING, LLC**

By: ^  
SMiCiMiK.  
Title: \*\*\_\*\*\*wvr

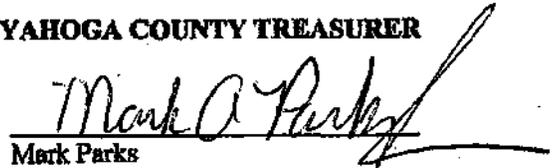
**S.F.U.F.R!  
CUYAHOGA COUNTY**

By: 

Edward FitzGerald,

Cuyahoga County Executive

**CUYAHOGA COUNTY TREASURER**

  
Mark Parks



NEW ISSUE-BOOK-ENTRY-ONLY

Ratings: *Standard* <£ *Poor's*: \_\_\_\_  
*Moody's Investors Service*: \_\_\_\_

In the opinion of Note Counsel, based upon its examination of the documents described in its opinion, under existing law, the interest on the Notes is included in gross income for federal income tax purposes. The Notes and interest thereon are exempt from all taxation by the State of Michigan or a taxing authority in the State of Michigan, except estate taxes and taxes on gains realized from the sale, payment or other disposition thereof See "TAX MATTERS" herein and Appendix C hereto.

COUNTY OF GENESEE  
 State of Michigan  
**\$4W50.0G0**  
 GENERAL OBLIGATION LIMITED TAX NOTES, SERIES 2010  
 (TAXABLE OBLIGATIONS)

Sale Date: May 18,2010

Time: 11:30 a.u. Eastern Daylight Time

*SUBMIT BIDS TO:*

*Paid Slander, Standee, Bareh A Associates, lit,*  
*3989 Research Park Drive, Ann Arbor, MI 48108*

*Fax:(734)668-6723 June 1, 2010 As shown below*

*DATE OF ISSUE:*

*DENOMINATION:*

*\$3.000 or*

*DUE:*

*any integral multiple thereof.*

*REGISTRATION;*

*Book-Entry-*

*Only*

*INTEREST:*

*First payable on September 1, 2010 and semi-annually thereafter.*

*NOTE REGISTRAR AND PAYING AGENT:*

*U. S. Bank National Association, Detroit, Michigan*

Proposals for the purchase of the Notes will be accepted under the following parameters- Bidders may choose one or both options. A pro-forma cash flow for each option is also provided.

Variable Rate Option:

Maturity Date: Interest: September 1,2012

Interest will be due July 1,2010 and monthly thereafter on either an actual/actual or actual/360 day basis.

Tenders:

The Notes are not subject to tender by Noteholders.

Optional Redemption:

The Notes shall be subject to optional redemption by the County in whole or in part on any interest payment date.

Rate Basis:

Interest on the Notes will be based on a spread to the most recent 30 day Libor. Indicate if the spread to Libor would differ for rated versus non rated notes.

rate notes on terms that are

Conversion: The County reserves the right to convert the variable rate notes to fixed mutually acceptable to the County and the purchaser.

Maximum Discount:

19b

Fixed Rate Option:

Maximum Premium: 1%.

Interest:

Interest will be due September 1,2010 and semiannually thereafter on a 30/360 day basis.

Optional Redemption:

The Notes are not subject to redemption prior to maturity.

Maximum Discount:

1%

Maximum Premium:

1%.

The Notes will mature semiannually as follows:

September 1,2010	March 1,2011	September 1,2011	March 1,2012	September 1,2012
512,800,000	\$16,600,000	\$4,100,000	\$8,900,000	\$3,930,000

of the Notes, the original of which will be delivered without expense to the purchaser upon delivery of the Notes. It is expected that the Notes will be delivered to the purchaser on or about June 1,2010 through The Depository Trust Company in New York, New York.

THIS COVER PAGE CONTAINS CERTAIN INFORMATION FOR QUICK REFERENCE ONLY. IT IS NOT A SUMMARY OF THIS ISSUE INVESTORS MUST READ THE ENTIRE

Additional information to be obtained from

OFFICIAL STATEMENT TO OBTAIN INFORMATION ESSENTIAL TO THE MAKING OF AN INFORMED INVESTMENT DECISION. AS OF ITS DATE, THIS OFFICIAL STATEMENT HAS BEEN DEEMED FINAL BY THE COUNTY FOR PURPOSES OF PARAGRAPH B OF THE SECURITIES EXCHANGE COMMISSION RULE 15CJ-

**STADDER, BARCH & ASSOCIATES, INC.**

*Municipal Bond Financial and Marketing Consultants*

JW hniU Park Drive  
 Ann Arbor, Michigan 48101

**COUNTY OF GENESEE**

0-4610 Beecher Road Flint, Michigan 48532-2617 Telephone #: (810) 732-7870 Fax #: (810) 732-9773

Chairperson *Jamie W, Curtis*

Vice-Chairperson *Patricia Lockwood*

*Archie H. Bailey Miles T. Gadoia  
Patrick F. Gleason*

**BOARD OF COMMISSIONERS**

*Brenda Clack Ted Henry John Northrop  
Omar A, Sims*

ACTING TREASURER *Jill McKenzie*

COUNTY CLERK *Michael J- Carr*

DRAIN COMMISSIONER *Jeffrey Wright*

CORPORATION COUNSEL *Ward Chapman*

PROSECUTING ATTORNEY *David Leyton*

SHERIFF *Robert J, Picked*

DIRECTOR, DIVISION OF WATER & WASTE SERVICES  
*John F. O'Brien*

CONTROLLER  
*George Martini*

**PROFESSIONAL SERVICES**

TRANSFER AGENT ..... *U.S. Bank National Association, Detroit, Michigan*

BOND COUNSEL .....  
*Slauder, BARCH A ASSOCIATES, Inc,*

FINANCIAL ADVISOR

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NO DEALER, BROKER, SALESPERSON OR OTHER PERSON HAS BEEN AUTHORIZED BY THE COUNTY OF GENESEE TO GIVE ANY INFORMATION OR THE MAKE ANY REPRESENTATION OTHER THAN AS CONTAINED IN THIS OFFICIAL STATEMENT, AND IF GIVEN OR MADE, SUCH OTHER INFORMATION OR REPRESENTATION MUST NOT BE RELIED UPON AS HAVING BEEN AUTHORIZED BY THE COUNTY.

THE INFORMATION CONTAINED IN THIS OFFICIAL STATEMENT HAS BEEN PREPARED FROM SOURCES WHICH ARE DEEMED TO BE RELIABLE, BUT IS NOT GUARANTEED AS TO ACCURACY OR COMPLETENESS.

THE INFORMATION AND EXPRESSIONS OF OPINION IN THIS OFFICIAL STATEMENT ARE SUBJECT TO CHANGE WITHOUT NOTICE AND NEITHER THE DELIVERY OF THE OFFICIAL STATEMENT NOR ANY SALE MADE UNDER IT SHALL, UNDER ANY CIRCUMSTANCES, CREATE ANY IMPLICATION THAT THERE HAS BEEN NO CHANGE IN THE AFFAIRS OF THE COUNTY SINCE THE DATE OF THIS OFFICIAL STATEMENT.

COUNTY OF GENESEE, STATE OF MICHIGAN  
GENERAL OBLIGATION LIMITED TAX NOTES, SERIES 2010  
(TAXABLE OBLIGATIONS)

This Official Statement, including the cover page hereof, of the County of Genesee (the "County") is provided for the purpose of setting forth information to all who may become registered holders of the \$46,350,000 County of Genesee, State of Michigan, General Obligation Limited Tax Notes, Series 2010 (the "Notes").

#### THE NOTES

##### Authorization and Purpose

The Notes are being issued pursuant to the provisions of Act 206, Public Acts of Michigan 1893, as amended ("Act 206"), which allows the County to borrow money in anticipation of the collection of unpaid real property taxes within the County. The Notes are being issued for the purpose of continuing in part the Fund (as defined in the section entitled "Creation of the Fund" below), created pursuant to provisions of Act 206 to make advances from the proceeds of the Notes to the State of Michigan (the "State") and units of government within the County, including the County, of amounts equaling their respective share of 2009 real property taxes against which the County has borrowed and that are outstanding and uncollected on March 1, 2010.

##### Security

**Primary Security:** The Notes are secured by 2009 real property taxes due and payable to the County, the State and taxing units within the County against which the County has borrowed and that were outstanding and uncollected on March 1, 2010 (the "Delinquent Taxes") and interest thereon, all County property tax administration fees on such taxes after expenses of issuance of the Notes have been paid and any amounts received by the County Treasurer from any taxing units because of the uncollectability of such taxes.

**Additional Security:** In addition, the Notes will be a limited tax general obligation of the County, secured by its full faith and credit. The County does not have the power to impose taxes for the payment of the Notes in excess of constitutional or statutory limitations.

##### Full Right of Recourse

The Notes will be general obligations of the County, secured by its full faith and credit, which shall include, if necessary, the obligation of the County to impose taxes for the payment of the Notes, subject to applicable constitutional and statutory limits. In addition, Act 206, provides in part that: "The primary obligation to pay to the County the amount of taxes and the interest on the taxes shall rest with the local taxing units and the state for the state education tax.... If the delinquent taxes that are due and payable to the County are not received by the County for any reason, the County has full right of recourse against the taxing unit or to the state for the state education tax... to recover the amount of the delinquent taxes and interest..."

##### Additional Notes

The County may issue additional notes that are secured equally and ratably with the Notes; provided, however, that the aggregate principal amount of the outstanding Notes and any additional notes shall not exceed the amount of delinquent taxes against which the County is borrowing. Such additional notes shall also be a limited tax general obligation of the County, secured by its full faith and credit.

##### Optional Redemption

Notes that bear interest at a variable rate shall be subject to redemption by the County on any interest payment date. The Notes of this series that bear interest at a fixed rate are not subject to redemption prior to maturity.

##### Description and Form of the Notes

The Notes will be issued in book-entry only form as one fully registered Note, without coupons, in the aggregate principal amount set forth on the cover page hereof. The Notes will be dated as of June 1, 2010 and bear interest from that date. Interest on the Notes that bear interest at a variable rate shall be payable on July 1 and monthly thereafter. Interest on the Notes that bear interest at a fixed rate shall be payable semiannually each September 1 and March 1 thereafter to maturity, commencing September 1, 2010. Interest on the Notes shall be computed using a 360-day year with twelve 30-day months, and the Notes will mature on the date and in the principal amount and will bear interest at the rate as set forth on the cover of this Official Statement.

The Note Registrar/Paying Agent will also serve as the note registrar and transfer agent if the Notes cease to be held in book-entry only form. For a description of payment of principal and interest, transfers and exchanges and notice of redemption on the Notes which are held in the book-entry only system, see "BOOK-ENTRY-ONLY SYSTEM" below. In the event the

Notes cease to be held in the book-entry only system, then interest on the Notes shall be payable when due by check or draft to the person or entity who or which is, as of the close of business on the 15th day of the month preceding each interest payment date, provided that if such day is a Saturday, Sunday or legal holiday in the State of Michigan (the "State"), as of the close of business on the day next preceding such 15th day of the month which is not a Saturday, Sunday or legal holiday in the State, (the "Record Date"), the registered owner of record, at the owner's registered address. See "BOOK-ENTRY-ONLY SYSTEM - Transfer Outside Book-Entry-Only System" below.

#### Note Registrar and Paying Agent

The Notes shall be payable as to principal in lawful money of the United States upon surrender thereof at the designated corporate trust office of the Note Registrar. Interest shall be paid to the registered owner of each Note as shown on the registration books of the County at the close of business on the 15th day of the calendar month preceding the month in which the interest payment is due. Interest shall be paid when due by check or draft, mailed by the Note Registrar to the registered owner at the registered address, interest on the Notes shall be computed upon the basis of actual/actual. If the Notes are no longer held in book-entry only form, the Notes will be transferable only upon the registration books of the County kept by the Note Registrar. Any Note may be transferred upon the books required to be kept by the Note Registrar by the registered owner thereof, in person or by the registered owner's duly authorized attorney, upon surrender of the Note for cancellation, accompanied by delivery of a duly executed written instrument of transfer in a form approved by the Note Registrar duly executed by the registered owner or the registered owner's attorney duly authorized in writing. Whenever any Note or Notes shall be surrendered for transfer, the Note Registrar shall authenticate and deliver a new Note or Notes, for like aggregate principal amount. The Note Registrar may require the payment by the Noteholder requesting the transfer of any tax or other government charge required to be paid with respect to the transfer.

#### Book-Entry-Only

The information in this section has been furnished by The Depository Trust Company, New York, New York ("DTC"). No representation is made by the County, the Paying Agent or the Underwriter as to the completeness or accuracy of such information or as to the absence of material adverse changes in such information subsequent to the date hereof. No attempt has been made by the County, the Paying Agent or the Underwriter to determine whether DTC is or will be financially or otherwise capable of fulfilling its obligations. Neither the County nor the Paying Agent will have any responsibility or obligation to DTC Participants, Indirect Participants (both as defined below) or the persons for which they act as nominees with respect to the Notes, or for any principal, premium, if any, or interest payment thereof.

DTC will act as securities depository for the Notes. The Notes will be issued as fully registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully registered Note certificate will be issued for each maturity of the Notes, each in the aggregate principal amount of such maturity and will be deposited with DTC.

DTC, the world's largest depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934, DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity, corporate and municipal debt issues, and money market instruments from over 100 countries that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). DTC has Standard & Poor's highest rating: AAA. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com) and [www.dtc.om](http://www.dtc.om).

Purchases of Notes under the DTC system must be made by or through Direct Participants, which will receive a credit for the Notes on DTC's records. The ownership interest of each actual purchaser of each Note ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Notes are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Notes, except in the event that use of the book-entry system for the Notes is discontinued.

To facilitate subsequent transfers, all Notes deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co. or such other name as may be requested by an authorized representative of DTC. The deposit of Notes with DTC and their registration in the name of Cede & Co. or such other nominee do not effect any change in beneficial ownership, DTC has no knowledge of the actual Beneficial Owners of the Notes; DTC's records reflect only the identity of the Direct Participants to whose accounts such Notes are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Notes may wish to take certain steps to augment transmission to them of notices of significant events with respect to the Notes, such as redemptions, tenders, defaults and proposed amendments to the Note documents. For example, Beneficial Owners of Notes may wish to ascertain that the nominee holding the Notes for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of the notices be provided directly to them.

Redemption notices shall be sent to DTC. If less than all of the Notes within a maturity are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such maturity to be redeemed.

Neither DTC nor Cede & Co. (nor such other DTC nominee) will consent or vote with respect to Notes unless authorized by a Direct Participant in accordance with DTC's Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the County as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Notes are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Payments of principal, interest and redemption amounts, if any, on the Notes will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the County or the Paying Agent, on the payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC (nor its nominee), Paying Agent, or County, subject to any statutory or regulatory requirements as may be in effect from time to time. Payments of principal, interest and redemption amounts, if any, to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) are the responsibility of the County or Paying Agent, disbursement of such payments to Direct Participants shall be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners shall be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as securities depository with respect to the Notes at any time by giving reasonable notice to the County or the Paying Agent. Under such circumstances, in the event that a successor securities depository is not obtained, Note certificates are required to be printed and delivered.

The County may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Note certificates will be printed and delivered to the Beneficial Owners,

The information in this section concerning DTC and DTC's book-entry-only system has been obtained from sources that the County believes to be reliable, but the County takes no responsibility for the accuracy thereof.

#### Transfer Outside Book-Entry-Only System

In the event that the book-entry-only system is discontinued, the following provisions would apply to the Notes. The Paying Agent shall keep the registration books for the Notes (the "Note Register") at its corporate trust office. Subject to the further conditions contained in the Note Resolution (as defined herein), the Notes may be transferred or exchanged for one or more Notes in different authorized denominations upon surrender thereof at the corporate trust office of the Paying Agent by the registered owners or their duly authorized attorneys; upon surrender of any Notes to be transferred or exchanged, the Paying Agent shall record the transfer or exchange in the Note Register and shall authenticate replacement Notes in authorized denominations; during the 15 days immediately preceding the date of mailing of any notice of redemption or any time following the mailing of any notice of redemption, the Paying Agent shall not be required to effect or register any transfer or exchange of any Note which has been selected for such redemption, except the Notes properly surrendered for partial redemption may be exchanged for new Notes in authorized denominations equal in the aggregate to the unredeemed portion; the County and the Paying Agent shall be entitled to treat the registered owners of the Notes, as their names appear in the Note Register as of the appropriate dates, as the owners of such Notes for all purposes under the Note Resolution. No transfer or exchange made other than as described above and in the Note Resolution shall be valid or effective for any purposes under the Note Resolution.

## THE FUND

### General

In 1976, the State of Michigan Legislature (the "State Legislature") amended Act 206 to permit any county to borrow for the purpose of funding a tax payment fund. Such fund is used to pay up to 100% of the delinquent real property taxes which were uncollected and were returned as delinquent on March 1, to the County, to any school district, intermediate school district, community college district, city, township, special assessment district, the State, or any other political unit within the County for which delinquent real property tax payments are due. In 1978, the State Legislature further amended Act 206 to permit the issuance of General Obligation Limited Tax Notes without a vote of the electors. Such delinquent taxes may include a 1% local government property tax administration fee.

The Notes are being issued for the purpose of continuing in part the Fund for \$51,627,735.58 of the Delinquent Taxes outstanding and due and payable to the County on March 1, 2010. Proceeds of the Notes will be used to make payments to the County, the State and all units within the County which returned their Delinquent Taxes for collection to the County in amounts equal to the taxes returned as delinquent and uncollected as of March 1, 2010 against which the County has borrowed.

### Creation of the Fund

The County of Commissioners of the County (the "County"), by resolution established a Delinquent Tax Revolving Fund, which has since been designated as the County's Delinquent Tax Revolving Fund (the "Fund"). Pursuant to a resolution adopted by the Board on April 27, 2010 (the "Resolution") the County will issue the Notes and fund the Fund from proceeds of the borrowing. The Notes are being issued for the purpose of continuing in part the Fund for \$51,627,735.58 of the Delinquent Taxes outstanding and due and payable to the County on March 1, 2010. Proceeds of the Notes will be used to make payments to the County, the State and all units within the County which returned their Delinquent Taxes for collection to the County in amounts equal to the taxes returned as delinquent and uncollected as of March 1, 2010 against which the County has borrowed. Upon delivery and payment of the Notes and pursuant to law, the County Treasurer will make the payments as described under THE NOTES - Authorization and Purpose. Separate and segregated accounts within the Fund are established for each tax year.

### Taxes, Interest and Fees

Once the accounts in the Fund are established for the 2009 tax year, the delinquent taxes, interest and property tax administration fees thereon are received by the County directly into the Fund. Interest on the Delinquent Taxes accrues from March 1, 2010 at the rate of one (1%) per month until the tax is paid. County property tax administration fees are 4% of the principal amount of the Delinquent Taxes. Act 206 provides for the payment of additional penalties and fees from time to time after March 1, 2010, if the Delinquent Taxes and the interest, penalties and fees remain unpaid. Additional interest on the Delinquent Taxes computed at the rate of  $V_i$  percent per month from March 1, 2010 is assessed if such Delinquent Taxes and the interest, penalties and fees remain unpaid on March 1, 2011.

The Notes are being issued pursuant to the provisions of Act 206. The Notes are primarily payable from the 2009 delinquent real property taxes which were returned as uncollected to the County Treasurer on March 1, 2010, and the interest on such taxes. (See "ADDITIONAL NOTES AND BORROWINGS").

### COLLECTION OF DELINQUENT REAL PROPERTY TAXES

Act 123, Public Acts of Michigan, 1999, as amended ("Act 123"), which became effective October 1, 1999, amended Act 206 and made significant changes with respect to the collection of delinquent real property taxes. Prior to Act 123, real property taxes that were delinquent on the March 1 following the year in which the taxes were due were subject to a tax lien sale 26 months later. Proceeds from the tax lien sale were used to pay the taxes on the property on which the lien was sold, as well as the interest, penalties and fees relating to such taxes. Properties having tax liens purchased at such sale were subject to redemption by the property owners for various redemption periods upon payment of the delinquent taxes and interest, fees and penalties thereon. Prior to Act 123, the receipt of delinquent taxes by the taxing units could take up to three years. Act 123 applies to the collection of taxes levied after December 31, 1998, including the Delinquent Taxes. Pursuant to Act 123, the County Treasurer still collects the Delinquent Taxes commencing March 1, 2009, together with

interest on the Delinquent Taxes from such date at the rate of one percent per month and a County property tax administration fee of four percent. However, the tax lien sale has been eliminated, In its place, Act 123 provides for the forfeiture, foreclosure and sale of the property having the unpaid real property taxes.

From March 1,2009, to March 1,2010, the County Treasurer will implement a property forfeiture process that includes the mailing of notices, imposition of fees, preparation of forfeiture lists and tax record searches. On March 1,2010, if the Delinquent Taxes remain unpaid, the property is forfeited to the County Treasurer, at which time an additional fee is imposed. Additional interest on the Delinquent Taxes at the rate of A percent per month from March 1,2009 is also assessed at that time,

The County Treasurer is then required to record a certificate of forfeiture with the County register of deeds. At this point, the County Treasurer, as the foreclosing governmental unit, will commence foreclosure proceedings during which certain rights to redeem the property still exist. The foreclosure process takes place during the next twelve months and involves title searches, foreclosure petitions, visits to the properties forfeited, the giving of various notices, a show-cause hearing conducted by the County Treasurer and a foreclosure hearing held by the circuit court. The circuit court is required to enter judgment on the foreclosure petition not more than ten days after March 1,2012, for uncontested cases or ten days after the conclusion of the circuit court hearing for contested cases. All redemption rights to the property expire twenty-one days after the circuit court enters a judgment foreclosing the property. The County Treasurer or person claiming to have a property interest in the property foreclosed may appeal the judgment to the court of appeals. The County Treasurer is required to record either the judgment or notice of the judgment in the office of the County register of deeds. The County Treasurer may conduct a land sale during July 2012 for property that was foreclosed. The minimum bid at which the property may be offered is the total of all delinquent taxes, interest, penalties and fees due on the property as well as the expenses of administering and preparing for the sale. The State may purchase the property by paying the greater of the minimum bid or the fair market value of the property. If the State does not elect to purchase the property, a city, village or township may purchase any property in that city, village or township for the minimum bid. If a city, village or township does not purchase the property, the County may purchase the property for the minimum bid. The County Treasurer must conduct a land sale during September 2012, if it still owns the property. If this is the first sale of the property, the State may purchase such property by paying the greater of the minimum bid or fair market value. A city, village or township may purchase the property for the minimum bid if the State does not purchase the property. The County Treasurer must conduct another sale during November 2012, for all property not previously sold at the July or September sales. At the November sale, the property may be purchased without regard to any minimum bid. Property remaining unsold after the November land sale may be transferred to the city, village or township in which the property is located, if such city, village or township consents; property that is not sold or transferred is retained by the County Treasurer.

Proceeds from the sale of property shall be used first by the County Treasurer to reimburse the delinquent tax revolving fund for all taxes, interest and fees on all of the property offered for sale, whether or not all of the property that was offered for sale was actually sold.

#### NOTE RATING

The County has applied for and received a short-term note ratings of “ \_\_\_\_\_ ” and “ \_\_\_\_\_ ” for the Notes from Standard & Poor’s Financial Services, LLC (“Standard & Poor’s”) and Moody’s Investor’s Service (“Moody’s”). The rating reflects only the views of the rating agency. Any explanation of the significance of the rating may be obtained only from the rating agency. There can be no assurance that the rating will continue for any given period of time or that it will not be lowered or withdrawn entirely by the rating agency if in its judgment circumstances so warrant. Any such downward change in or withdrawal of a rating may have an adverse effect on the marketability or market price of the Notes.

#### LITIGATION

To the knowledge of the County Treasurer, no controversy is pending against the County threatening or seeking to restrain or enjoin the issuance, sale execution or delivery of the Notes, or in any way contesting or affecting the validity of the Notes, or any proceedings of the County taken with respect to the issuance or sale thereof, or the pledge or application of any monies or security provided for the payment of the Notes.

No material legal actions are pending or threatened against the County which are, in the opinion of the County’s prosecuting attorney, reasonably anticipated to result in a final judgment against the County in an amount in excess of 1% of the County’s general fund budget, after any budgeted surplus, which amount is not completely covered by insurance or for which the County has not set aside an adequate reserve to pay such possible judgment.

#### CONTINUING DISCLOSURE

The County has covenanted and will covenant for the benefit of the holders of the Notes and the Beneficial Owners (as hereinafter defined), pursuant to the Resolution and the Continuing Disclosure Certificate to be delivered on the date of issuance of the Notes to the purchaser thereof (the "Disclosure Certificate"), to provide or cause to be provided: (i) each year, certain financial information and operating data relating to the County (the "Annual Report") by not later than the date six months after

the first day of the County's fiscal year, commencing with the Annual Report for the County's fiscal year ended September 30,2009; provided, however, that if the audited financial statements of the County are not available by such date, they will be provided when and if available, and unaudited financial statements in a format similar to the audited financial statements then most recently prepared for the County will be included in the Annual Report; and (ii) timely notices of the occurrence of certain enumerated events, if material. Currently, the County's fiscal year commences on October 1. "Beneficial Owner" means any person which has or shares the power, directly or indirectly, to make investment decisions concerning ownership of any Notes (including any person holding Notes through nominees, depositories or other intermediaries).

Each Annual Report will be filed with the Municipal Securities Rulemaking Board ("MSRB") electronically through the Electronic Municipal Market Access system ("EMMA"). If the County is unable to provide the MSRB its Annual Report by the date required, the County shall send in a timely manner, to the MSRB through EMMA, a notice of failure to file the Annual Report by such date. The notices of material events will be filed by the County with the MSRB through EMMA. These covenants have been made in order to assist the purchasers of the Notes and registered brokers, dealers and municipal securities dealers in complying with the requirements of subsection (bX5) of Rule 15c2-12 promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended (the "Rule"). The information to be contained in the Annual Report, the enumerated events, the occurrence of which will require a notice, and the other terms of the Disclosure Certificate are set forth in Appendix C, "FORM OF CONTINUING DISCLOSURE CERTIFICATE."

The County has not failed to comply in the last five years, in all material respects, with any previous undertakings in a written contract or agreement that it entered into pursuant to subsection (bX5) of the Rule.

#### APPROVAL OF LEGALITY

The legality of the authorization, sale and delivery of the Notes is subject to the approval of Bodman LLP, attorneys of Detroit, Michigan ("Note Counsel"), whose unqualified approving opinion will be furnished prior to the delivery of the Notes.

#### NOTE COUNSEL'S RESPONSIBILITY

The fees of Note Counsel for services rendered in connection with its approving opinion are expected to be paid from Note proceeds. Except to the extent necessary to issue its approving opinion as to the validity of the Notes and tax matters relating to the Notes and the interest thereon, and except as stated below. Note Counsel has not been retained to examine or review, and has not examined or reviewed any financial documents, statements or materials that have been or may be furnished in connection with the authorization, issuance or marketing of the Notes and accordingly will not express any opinion with respect to the accuracy or completeness of any such financial documents, statements or materials.

Note Counsel has reviewed the statements in this Official Statement under the heading "COMPETITIVE BIDS INVITED," "THE NOTES," (except for 'Book- Entry-Only), "THE FUND," "APPROVAL OF LEGALITY," and "NOTE COUNSEL" and " APPENDIX D-DRAFT LEGAL OPINION." Bond Counsel has not been retained to review and has not reviewed any other portions of the Official Statement for accuracy or completeness, and has not made inquiry of any official or employee of the Issuer or any other person and has made no independent verification of such other portions hereof, and further has not expressed and will not express an opinion or belief as to any such other portions hereof.

#### FINANCIAL CONSULTANT

Stauder, Barch *SL* Associates, Inc. is serving as independent financial marketing consultant on this issue and has no underwriting, secondary obligations or other responsibility to the County. Our duties, responsibilities and fees are derived solely from that as financial consultant to the County.

Further information concerning the Notes may be secured from the Genesee County Treasurer, Genesee County Courthouse, G-4610 Beecher Road, Flint, Michigan 48532-2617, or from Stauder, *Barch & Associates*, Inc. 3989 Research Park Drive, Ann Arbor, Michigan 48108 (734-668-6688), financial consultant to the County.

**HISTORICAL COLLECTIONS**

**2006 Delinquent Tax Collections**

	Cnnmlathe Tax Collections	CnimUtiw Percentage of Taxes Collected	Cnrarlatw Collection of Interest and Fees on Taxes
<u>2007</u>			
	March	3,158,581	6.9%
	April	5,948,305	13.0%
	May	8,342,548	18.0%
	June	12,058,254	26.3%
	July	14,173,305	30.9%
	August	16,488,099	35.9%
	Septenber	18,443,696	40.2%
	October	20,306,946	44.0%
	Noverrber	22,494,004	49.0%
	December	23,895,795	52.0%
<u>2008</u>	January	25,485,045	55.5%
	February	31,418,239	68.4%
	March	32,366,690	70.3%
	April	32,785,726	71.4%
	May	33,144,398	72.2%
	June	33,466,157	72.9%
	July	33,962,398	74.0%
	August	34,383,965	74.7%
	Septenber	35,295,116	76.9%
	October	35,695,357	77.7%
	November	36,042,086	78.5%
	December	36,875,504	80.3%
<u>2009</u>	January	37,808,630	82.3%
	February	39,127,169	85.2%
	March	40,557,834	88.3%
	April	40,613,356	88.5%
	May	40,651,821	88.5%
	June	40,703,717	88.7%
	July	40,737,563	88.7%
	August	40,733,542	88.7%
	September	40,784,328	88.8%
	October	40,824,661	88.9%
	November	40,841,865	89.0%
	Deccnber	40,872,948	89.0%
<u>2010</u>	January	40,950,534	89.2%
	February	41,106,511	89.5%
	Match	41,301,160	90.0%
	April	0	0.0%

Total 2006 ta»s turned Delinquent to  
the County March 1.2007 -  
\$48,913,785

Original Amount of Note Issued = \$44,000,000

**HISTORICAL COLLECTIONS**

**2007 Delinquent Tax Collections**

	Cumulative Percentage of Taxes Collected	Cumulative Collection of Interest and Fees on Taxes	Cumulative Tax Collection*
<b>1008</b>			
March	2332.800	5.0%	126,904
April	5319,875	10.4%	283319
May	7,440,156	14.8%	433,132
June	10,069,394	20.0%	640,887
July	13,337,663	26.3%	906,969
August	14,917,344	29.6%	1,067,805
September	18,782,413	37.3%	1,445,397
October	20,934,869	41.6%	1,703,853
November	21,372,872	43.4%	1,323,916
December	24,179,971	48.0%	2,139,590
January	25,813,702	51.3%	2,383,957
February	32,352,305	64.0%	3,413,000
March	33,186,067	65.9%	3,629,358
April	33,722,178	67.0%	3,715,074
May	34,308,743	67.5%	3,762,308
June	34,379,375	68.3%	3,822,745
July	34,757,306	69.0%	3,885,322
August	35,454,842	70.4%	3,997,777
September	36,190,904	71.9%	4,117,760
October	36,754,302	73.0%	4,310,165
November	37,456,031	74.4%	4,325,364
December	37,965,744	75.4%	4,408,084
January	39,427,970	78.3%	4,649,462
February	41,370,370	82.2%	4,970,955
March	43,176,767	85.7%	5,367,393
April	0	0.0%	0

Total 2007 taxes turned Delinquent to  
the County March 1, 2008 = 503,575.90

Original Amount of Note Issued - \$50,000,000

# HISTORICAL COLLECTIONS

## 2008 Delinquent Tax ejection\*

	Cumulative Tax Collections	Cumulative Percentage of Interest and Fees on Taxes	Cumulative Collection of
March	3,266,149	6.0%	162,642
April	5,976,458	11.0%	324,967
May	7,627,067	14.1%	439,744
June	11,463,888	21.2%	741,892
July	14,445,424	26.7%	993,676
August	16,725,439	30.9%	1,217,396
September	19,458,959	35.9%	1,516,492
October	21,345,824	39.4%	1,741,374
November	22,313,898	41.5%	1,886,310
December	23,712,032	43.8%	2,055,726
January	25,938,059	47.9%	2,383,221
February	32,607,328	60.2%	3,452,264
March	33,761,304	62.3%	3,779,758
April	0	0.0%	0

Total 2008 taxes turned Delinquent to the County March 1, 2009 = \$54,193,925.00

Original Amount of Note Issued = \$54,000,000

## HISTORICAL COLLECTIONS

### 2009 Delinquent Tax Collections 2010

	Cumulative Tax Collections	Cumulative Percentage of Taxes Collected	Cumulative Collection of Interest and Pees on Taxes
March	3,255,892	6.3%	

Total 2009 taxes turned Delinquent to to the  
County 3/2/10

8 \$51,627,735.5  
\$44,200,000

Original Amount of Note Issued ■  
\$51,627,735.58

**HISTORICAL COLLECTIONS**

		Average Percentage of Taxes			Collected		
		200* Thi Collection!	2007 Tax CoH<-ti<u		Cuimil.		
Year 1	March	\$3,158,581 6.88%	\$2,532,800 5.03%	\$3,266,149 6.03%	5.98%	5.98%	
	April	2,789,624 6.08%	2,687,075 5.34%	2,710,209 5.00%	5.47%	11.45	
	May	2,294,343 5.00%	2,220,281 4.41%	1,650,609 3.05%	4.15%	15.60	
	June	3,815,706 8.31%	2,629,138 5.22%	3,836,221 7.08%	6.87%	22.47	
	July	2,115,051 4.61%	3,168,369 6.29%	2,982,136 5.50%	5.47%	27.94	
	August	2,314,791 5.04%	1,679,681 3.34%	2,280,015 4.21%	4.19%	32.13	
	September	1,955,600 4.26%	3,865,069 7.68%	2,733,520 5.04%	5.66%	37.79	
	October	1,763,247 3.84%	2,152,456 4.27%	1,886,866 3.48%	3.87%	41.66	
	November	2,287,058 4.98%	938,003 1.86%	1,168,073 2.16%	3.00%	44.66	
	December	1,401,791 3.05%	2,307,099 4.58%	1,198,134 2.21%	3.28%	47.94	
	Year 2	January	1,589,250 3.46%	1,633,731 3.24%	2,226,027 4.11%	3.60%	51.54
		February	5,933,193 12.92%	6,438,603 12.79	6,669,269 12.31%	12.67%	64.21
March		848,452 1.85%	933,762 1.85%	1,153,976 2.13%	1.94%	66.16	
April		519,036 1.13%	536,111 1.06%	0.00%	1.10%	67.26	
May		358,572 0.78%	286,565 0.57%	0.00%	0.68%	67.93	
June		321,859 0.70%	370,831 0.74%	0.00%	0.72%	68.65	
July		496,141 1.08%	377,631 0.75%	0.00%	0.92%	69.56	
August		321,667 0.70%	697,636 1.39%	0.00%	1.04%	70.61	
September		1,011,151 2.20%	736,062 1.46%	0.00%	1.83%	72.44	
October		400,241 0.87%	563,599 1.12%	0.00%	1.00%	73.44	
November		346,729 0.76%	701,529 1.39%	0.00%	1.07%	74.51	
December		833,418 1.82%	509,713 1.01%	0.00%	1.41%	75.92	
Year 3	January	933,126 2.03%	1,462,225 2.90%	0.00%	2.47%	78.39	
	February	1,430,665 3.12%	1,805,896 3.59%	0.00%	3.36%	81.76	
	March	55,522 0.12%	0.00%	0.00%	0.12%	85.23	
	April	38,464 0.08%	0.00%	0.00%	0.08%	85.31	
	May	51,897 0.11%	0.00%	0.00%	0.11%	85.42	
	June	33,845 0.07%	0.00%	0.00%	0.07%	85.50	
	July	4,021 -0.01%	0.00%	0.00%	-0.01%	85.49	
	August	50,686 0.11%	0.00%	0.00%	0.11%	85.60	
	September	40,433 0.09%	0.00%	0.00%	0.09%	85.69	
	October	17,204 0.04%	0.00%	0.00%	0.04%	85.73	
	November	31,063 0.07%	0.00%	0.00%	0.07%	85.79	
	December	77,587 0.17%	0.00%	0.00%	0.17%	85.96	
Year 4	January	155,977 0.34%	0.00%	0.00%	0.34%	86.30	
	February	194,649 0.42%	0.00%	0.00%	0.42%	86.73	
	March						
	Total	41,301,160 89.95%	43,176,767 85.74%	33,761,204 62.30%	86.73%		
Originally							
Debt		\$ 45,913,785	\$ 50,257,590	\$ 54,193,925			

# COUNTY OF GENESEE

## GENERAL FINANCIAL INFORMATION

### AREA

The County of Genesee covers an area of approximately 643 square miles.

### POPULATION

The population of the County is as follows:

2009 U.S. Census Estimate	428,790*
2000 U.S. Census	436,141
1990 U.S. Census	430,459
1980 U.S. Census	450,449

\* Estimated based on an extrapolation of the U.S. Census figures of the local units within the County.

### PROPERTY VALUATIONS

Article IX, Section 3, of the Michigan Constitution, limits the proportion of true cash value at which property can be assessed to a percentage not to exceed 50% of true cash value. The Michigan Legislature by statute has provided that property shall be assessed at 50% of its true cash value, except as described in the paragraphs below. The Michigan Legislature or the electorate may at some future time reduce the percentage below 50% of true cash value.

On March 15, 1994, the electors of the State approved an amendment to the Michigan Constitution permitting the Legislature to authorize ad valorem taxes on a non-uniform basis. The legislation implementing this constitution amendment added a new measure of property value known as "taxable value." Since 1995, taxable property has had two valuations ~ State equalized valuation ("SEV") and taxable value. Property taxes are levied on taxable value. Generally, the taxable value of property is the lesser of (a) the taxable value of property in the immediately preceding year, adjusted for losses, multiplied by the lesser of the net percentage change in the property's SEV from the preceding year to the current year, or the inflation rate, or 5%, plus additions, or (b) the property's current SEV. Under certain circumstances, therefore, the taxable value of property may be different from the same property's SEV.

This constitutional amendment and the implementing legislation base the taxable value of existing property for the year 1995 on the SEV of that property in 1994 and for the years 1996 and thereafter on the taxable value of the property in the preceding year. Beginning with the taxes levied in 1995, an increase, if any, in taxable value of the existing property is limited to the lesser of the net percentage change in SEV from the preceding year to the current year, 5% or the inflation rate. When property is sold or transferred, taxable value is adjusted to the SEV, which under existing law is 50% of the current true cash value. The taxable value and SEV of new construction is equal to current SEV. The taxable value and SEV of existing property are also adjusted annually for additions and losses.

Responsibility for assessing taxable property rests with the local assessing officer of each township and city. Any property owner may appeal the assessment to the local assessor, the local Board of Review and ultimately to the Michigan Tax Tribunal.

In addition to limiting the annual increase in taxable value, the Michigan Constitution mandates a system of equalization for assessments. Although the assessors for each local unit of government within a county are responsible for actually assessing at 50% of true cash value, adjusted for taxable value purposes, the final SEV and taxable value are arrived at through several steps. Assessments are established initially by the municipal assessor. Municipal assessments are then equalized to the 50% levels as determined by the County Department of Equalization. Thereafter, the State equalizes the various counties in relation to each other. SEV is important, aside from its use in determining taxable value for the purpose of levying ad valorem property taxes, because of its role in the spreading of taxes between overlapping jurisdictions, the distribution of various State aid programs. State revenue sharing and in the calculation of debt limits.

Property that is exempt from property taxes (e.g., churches, governmental property, public schools) is not included in the SEV or taxable value data in this Official Statement. Property granted tax abatements under Act 198, Public Acts of Michigan, 1974, as amended, is recorded on a separate tax roll which is subject to tax abatement. The valuation of tax abated property is based upon SEV but is not included in either the SEV or taxable value data in the Official Statement except as noted.

### *Historical Valuation*

Year	State Equalized Valuation	Taxable Valuation
2009	\$12,466,321,796	\$11,386,079,390
2008	13,698,999,172	11,829,074,332
2007	14,156,934,349	11,849,655,646
2006	13,695,827,367	11,320,948,189
2005	13,035,032,411	10,721,826,321
2004	12,294,546,948	10,108,083,643
2009 Taxable Valuation		\$11,386,079,390
Plus: 2009 IFT Valuation		101,224,059*
2009 Total Taxable Valuation		<u>51,487,303,449</u>

\* Millage is levied at half rate against the IFT Taxable Valuation, See "Tax Abatements" below Source: Genesee County Equalization Dept

#### *Per Capita Valuation*

2009 Per Capita Taxable Valuation	\$26,553.98
2009 Per Capita State Equalized Valuation	\$29,073.26
2009 Per Capita Estimated True Cash Valuation	\$58,146.51

#### *Tax Abatements*

Under the provisions of Act 198 of the Public Acts of Michigan, 1978 ("Act 198"), plant rehabilitation districts and/or industrial development districts may be established. Businesses in these districts are offered certain property tax incentives to encourage restoration or replacement of obsolete facilities and to attract new facilities in the area. The industrial facilities tax ("IFI"\*) is paid, at a lesser effective rate and in lieu of ad valorem property taxes, in such facilities for a period of up to 12 years. Qualifying facilities are issued abatement certificates for this period.

After expiration of the abatement certificate, the then-current SEV of the facility is returned to the ad valorem tax roll. The owner of such facility may obtain a new certificate, provided it has complied with the provisions of Act 198.

The 2009 Taxable Value for all IFT abated property within the County is \$101,224,059. Millage is levied at half the rate on the Taxable Value of the IFT abated Property.

#### *Tax Increment Authorities*

Act 450 of the Public Acts of Michigan, 1980, as amended, (the "TIFA Act"), Act 197 of the Public Acts of Michigan, 1975, as amended, (the "TDA Act"), and Act 281 of the Public Acts of Michigan, 1986, as amended, (the "LDFA Act") (together the "TIF Acts") authorize the designation of specific-districts known as Tax Increment Finance Authority ("TIFA") Districts, Downtown Development Authority ("DDA") Districts, Local Development Finance Authority ("LDFA") Districts or Brownfield Redevelopment Authority ("BRDA") Districts. Such districts are authorized to formulate tax increment financing plans for public improvements, economic development, neighborhood revitalization and historic preservation within the district.

Tax increment financing permits the TIFA, DDA, LDFA, or BRDA to capture tax revenues attributable to increases in value ("TIF Captured Value") of real and personal property located within an approved development area while any tax increment financing plans by an established district are in place. These captured revenues are used by the districts and are not passed on to the local taxing jurisdictions.

#### *Tax Base Composition*

A breakdown of the County's 2009 Taxable Valuation by municipality, class and use is as follows;

Bv Municipality	Taxable Valuation	Percent of Total
Cities	\$3,807,708,585	33.44%
Townships	7,578,370,805	66.56
<b>TOTAL</b>	<b>\$11,386,079,390</b>	<b>100.00%</b>

Bv Class	Taxable Valuation	Percent of Total%
Real Property	\$10,622,575,481	93.29%
Personal Property	763,503,909	§JI
<b>TOTAL</b>	<b>\$11,386,079,390</b>	<b>100.00%</b>

Bv Use	Taxable Valuation	Percent of Total%
Agricultural	\$ 117,758,456	1.03%
Commercial	2,125,973,096	18.67
Industrial	444,413,929	3.90
Residential	7,930,452,065	69.65
Developmental	3,977,935	0.03
Commercial Personal	331,685,642	2.91
Industrial Personal	224,497,100	1.97
Utility Personal	207,321,167	1.82

TOTAL \$11,386,079,390 ***mm***  
Source: Genesee County Equalization Dept

## MAJOR TAXPAYERS

The top ten taxpayers in the County and their 2009 Taxable Valuation and Industrial Facilities Tax valuations are as follows;

Taxpayer	Pfoduct/Service	Taxable Valuation -i-	IFT Valuation	Total = Valuation
General Motors Corp	Automotive	\$281,731,488	\$41,021,200	\$322,752,688
Consumers Energy	Utility	203,412,202	-0-	203,412,202
Genesee Valley Partners LP	Investments	66,157,400	-0-	66,157,400
Wal-Mait/Sam's Club	Retail/Grocer	47,476,912	-0-	47,476,912
Meijer Inc./Goodwill Co. Inc.	Retail	32,264,018	•0*	32,264,018
Edward Rose Assoc.	Construction	29,035,991	-0-	29,035,991
Delphi Automotive*	Automotive	25,668,800	-0-	25,668,800
Home Depot	Retail	22,680,319	-0-	22,680,319
Federal Nationwide Association	Insurance/investments	22,092,473	-0-	22,092,473
Android Industries LLC	Auto A aviation nroducts	-0-	20,203,058	20,203,058
<b>TOTAL</b>		<b>\$730,519,603</b>	<b>\$61,224,258</b>	<b>\$791,743,861</b>

The Taxable Valuations of the above taxpayers excluding EFT valuation represent 6.42% of the County's 2009 Taxable Valuation of \$11,386,079,390. The Total Valuation including TFT valuation represent 6.89% of the Total Taxable Valuation of \$11,487,303,449.

\* Delphi Automotive has filed for bankruptcy. The plant is still operational at this time.

Source: Genesee County Equalization Dept.

## CONSTITUTIONAL ROLLBACK AND ASSESSMENT CAPS

Article IX, Section 31 of the Michigan Constitution requires that if the total value of existing taxable property (State Equalized Valuation) in a local taxing unit, exclusive of new construction and improvements, increases faster than the U.S. Consumer Price Index from one year to the next, the maximum authorized tax rate for that local taxing unit must be reduced through a Millage Reduction Fraction unless new millage is authorized by a vote of the electorate of the local taxing unit.

## TAX RATES (Per \$1,000 of Valuation)

Each school district, county, township, special authority and city has a geographical definition which constitutes a tax district. Since local school districts and the county overlap either a township or a city, and intermediate school districts overlap

local school districts and county boundaries, the result is many different tax rate districts.

<i>Genesee County</i>	2009	2008	<b>2007</b>	2006	2005
County Operating	5.5072	5.5072	5.5072	5.5072	5.5095
County Parks & Recreation	0.4847	0.4847	0.4847	0.4847	0.4849
County Paramedics	0.4847	0.4847	0.4847	0.4847	0.4849
Senior Services	0.7000	0.7000	0.7000	0.7000	0.0000
Uninsured Health Care	1.0000	1.0000	<b>1.0000</b>	1-0000	0.0000
County's Total	8.1766	8.1766	8.1766	8.1766	6.4793
<i>Other Tax Rates:</i>					
Airport Authority	2009	2008	2007	2006	2005
District Library	0.4847	0.4847	0.4847	0.4847	0.4849
Genesee I/S/D	0.7481	0.7481	0.7481	0.7481	0.7500
Mott Community College	3.5341	3.5341	3.5341	3.5341	3.5361
	2.6796	2.6796	2.6796	2.6796	2.6807

Source: Genesee County

#### TAX RATE LIMITATION

Article IX, Section 6, of the Michigan Constitution of 1963 provides in part:

“Except as otherwise provided in this Constitution, the total amount of general ad valorem taxes imposed upon real and tangible personal property for all purposes in any one year shall not exceed 15 mills on each dollar of the assessed valuation of property as finally equalized.”

Section 6 further provides that, by a majority vote of the qualified electors of a county, the 15 mill limitation may be increased to a total not to exceed 18 mills, and that the millages of the local units involved shall then be permanently fixed within that greater millage rate limitation.

Act 62, Public Acts of Michigan, 1933, as amended, defines “local units” as “counties, townships, villages, cities, a first class school districts (only Detroit schools), community college districts, intermediate school districts, and all other divisions, districts, and organizations of government that are or may be established by law and that have the power to levy taxes against property located within their respective areas, except villages and cities for which there are provisions in their charters or general law fixing maximum limits on the power to levy taxes against property.”

The amount of mills allocated to the County, townships in the County and the intermediate school districts have been fixed by vote as follows:

Units of Government	Rates
County of Genesee	5.6800
Townships	1.0000
Intermediate School District	0.2000
<b>TOTAL</b>	<b>6.8800</b>

In addition, Article IX, Section 6, permits the levy of millage in excess of the above for operating purposes for a specified period of time provided that said increase is approved by a majority of the qualified electors of the local unit.

The County is authorized to levy the following tax rates:

	Millage Appl'd	2009 Maximum Allowable Millage after Rollback*	Expiration Date of Lev
Operating	5.6800	5.5072	N/A
County Parks	0.5000	0.4847	12/31/16
County Paramedics	0.5000	0.4847	12/31/16
Senior Services	0.7000	0.7000	12/31/15
Uninsured Health Care	1.0000	1.0000	12/31/12

\* See "CONSTITUTIONAL ROLLBACK AND ASSESSMENT CAPS" herein.

Source: Genesee County

#### TAX LEVIES AND COLLECTIONS

The County's fiscal year begins October 1 and ends September 30. Its property taxes are due July 1 and December 1 of each fiscal year and are payable without penalty or interest on or before the following September 14 and February 14, respectively. All real property taxes remaining unpaid on March 1 st of the year following the levy are turned over to the County Treasurer for collection, Genesee County annually pays from its Tax Revolving Fund delinquent taxes on real property to all taxing units in the County, including the County's, shortly after the date delinquent taxes are returned to the County Treasurer for collection.

A history of tax levies and collections for the County is as follows:

Fiscal Year	Levy Year	Total Tax Levy	Collections to March 1. of Following Year		Collections Plus Funding to September 30. of Following Year	
2009	2008	\$77,275,942	\$70,409,930	91.1%	\$76,434,327	98.9%
2008	2007	77,184,286	69,733,103	90.3	75,596,686	97.9
2007	2006	73,789,449	66,320,663	89.9	71,359,738	96.7
2006	2005	69,978,962	64,674,114	92.4	68,011,682	97.2
2005	2004	66,168,833	60,857,672	92.0	63,234,772	95.6
2004	2003	63,422,129	58,517,508	92.3	60,598,115	95.5

The Tax Revolving Fund is financed through the issuance of General Obligation Limited Tax Notes (GOLTNs) by the County. The ability of the County to issue such GOLTNs is subject to market conditions at the time of offering. In addition, Act 206 of 1893, as amended, provides in part that: "The primary obligation to pay to the county the amount of taxes and interest thereon shall rest with the local taxing units, and if the delinquent taxes which are due and payable to the county are not received by the county for any reason, the county has full right of recourse against the taxing unit to recover the amount thereof and interest thereon..." On the first Tuesday in May in each year, a tax sale is held by the County at which lands delinquent for taxes assessed in the third year preceding the sale, or in a prior year, are sold for the total of the unpaid taxes of those years.

Source: Comprehensive Annual Financial Report and County of

Genesee REVENUES FROM THE STATE OF MICHIGAN

General

The County receives revenue sharing payments and other moneys from the State under the State Constitution and the State Revenue Sharing Act of 1971, as amended (the "Revenue Sharing Act"). The State revenue sharing program distributes sales tax revenues collected by the State to city, village, township, and county governments as unrestricted revenues. The table appearing at the end of this section shows State revenue sharing distributions and other moneys received by the County during the County's past four fiscal years, and the estimated receipts for the County's 2008 fiscal year.

In 1996, the State Legislature expressly designated the revenues of the sales tax as the sole source for revenue sharing. The sales tax revenues come from a 6% State levy on retail sales (other than sales of certain exempt items such as food and drugs). The State Constitution limits the rate of sales tax to 6%, and dedicates 100% of the revenue of sales tax imposed at a rate of 2% to the State School Aid Fund, The State Constitution further mandates that 15% of the total revenues collected from sales taxes levied at the remaining 4% be distributed to townships, cities and villages. The Revenue Sharing Act distributes an additional 21.3% of those revenues to Michigan municipalities, including counties.

At the end of calendar year 1998, the Legislature again amended the Revenue Sharing Act to accomplish the following, among other things (the “1998 Amendments”):

- (1) re-adjust the percent share of statutory distributions from 24.5% for counties and 75.5% to cities, villages, and townships, to 25.06% for counties and 74.94% to cities, villages, and townships.
- (2) Create a “sunset” of the statute by including language that revenue sharing after June 30,2007 will be distributed “as provided by law.”

In addition to payments of revenue sharing moneys, the State pays the County to support judges' salaries, as well as other miscellaneous state grants.

Revenue sharing payments and other monies paid to municipalities (other than the portion which is mandated by the State constitution) are subject to annual appropriation by the State Legislature, and may be reduced or delayed by Executive Order during any fiscal year in which the Governor, with the approval of the legislature’s appropriation committees, determines that actual revenues will be less than the revenue estimates on which appropriations were based.

County Reserve Fund

In anticipation of a continued budget deficit, in September 2004, Governor Granholm signed into law Act 356, Public Acts of Michigan, 2004 (“Act 356”), an amendment to the Revenue Sharing Act, and Act 357, Public Acts of Michigan, 2004 (“Act 357”) an amendment to the General Property Tax Act, Act 356 and Act 357 accomplish the temporary elimination of approximately \$182.1 million in statutory revenue sharing payments to counties by creating a reserve fund paid for by the permanent advancement of the counties’ property tax levy from December to July each year, beginning July 2005, Under Act 356 and Act 357, the county revenue generated from the accelerated levy will be placed in a reserve fund that each county would draw against in lieu of their annual revenue sharing payments. State revenue sharing payments to a county would resume in the first year in which a county’s property tax revenue reserve is less than the amount the county would have otherwise received in state revenue sharing payments.

General Fund Revenues From the State

The following table sets forth the annual revenue sharing payments and other moneys received by the County for the fiscal years ended September 30, 2004 through September 30, 2007, and the estimated revenue sharing payments received for the fiscal year ended September 30,2008.

Fiscal Year	Revenue Sharing
<u>Ended September 30</u>	<u>Payments<sup>1</sup></u>
2010 <sup>2</sup> 2009 2008	\$9,910,159
20071	9,945,951
2006*	9,492,489
	9,243,278
	8,861,372

<sup>1</sup> Amounts do not include state gas and weight tax distributions.

<sup>2</sup> The County’s fiscal year 2010 budget anticipates a draw of \$9,910,159 in lieu of the County’s annual revenue sharing payment from the revenue generated from the State-created reserve fund. See “County Reserve Fund” above,

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<sup>1</sup> The County’s fiscal year 2006/07 revenues included a draw of \$9,243,278 in lieu of the County’s annual revenue sharing payment from the revenue generated from the State-created reserve fund. The 2005/06 revenues included a draw of \$8,861,372 in lieu of the County’s annual revenue sharing payment and the County utilized a transfer of \$8,662,143 from the revenue sharing reserve fund for the County’s 2004/2005 annual budget, See "County Reserve Fund" above.

Source: Web site <http://treasury.state.mi.us>

Purchasers of the Bonds should be alert to further modifications to revenue sharing payments to Michigan local governmental units, to the potential consequent impact upon the County’s general fund condition, and to the

potential Impact upon the market price or marketability of the Bonds resulting from changes in revenues received by the County from the State.

**LABOR FORCE**

A breakdown of the number of employees of the County and their affiliation with organized groups is as follows:

<u>Bargaining Unit</u>	<u>Number</u>	<u>Contract Expiration</u>
AFSCME		
Local 496, Chapters 00 & 01 (General Employees Union)	489	09/30/10
Local 916, Chapters A, B, C & H (Supervisory)	53	06/30/10
Local 916 & F&G (Sheriffs Dept. Supr.)	40	12/31/10
Mobile Meal Drivers	13	09/30/10
Local 496, Chapter 02 (GVRC)	31	03/31/11
P.O.A.M. (Police Officers & Jail Security)	217	12/31/11
Judicial Secretaries Association	17	12/31/10
Teamsters Local 214 (Park Maintenance)	7	12/31/10
Teamsters Local 214 (Friend of the Court)	6	12/31/10
Professional Court Officers Association	49	12/31/10
SEIU (Drain Maintenance Employees)	7	12/31/10
Non Union County Employees	144	N/A
Non Union Seasonal Employees	278	N/A
<b>TOTAL</b>	<b>1,351</b>	

**RETIREMENT PLANS**

The County maintains two distinct retirement plans for its employees. A defined benefit plan is available in accordance with the Genesee County Employees Retirement System Ordinance (the "*GCERS Plan*"). A defined contribution plan is available in accordance with the Genesee County Defined Contribution Pension Plan (the "*DC Plan*"). All County employees, except members of AFSCME Mobile Meals Drivers and AFSCME Seasonal Parks Employees, are participants in either the GCERS Plan or the DC Plan. Employees hired prior to the effective date of the DC plan to their respective employee group, which for most employees was July 1,1996, were permitted to elect between the GCERS Plan and the DC Plan. Most employees hired between 1996 and 2006 had the option of selecting the GCERS Plan or the DC Plan. All employees hired after 2006 must select the DC Plan for retirement. For information regarding retirement plans, see APPENDIX B.

*GCERS Plan* - This is a contributory multi-employer defined benefit pension plan. County employees represented by the various bargaining units are required to contribute from 0.9%, to 5.0% of all compensation, including overtime. The County provides contributions at actuarially determined rates. During 2008, employer contribution rates ranged from 11.20% to 23.48% of covered payroll. For the year ending December 31,2008 (the date of the latest actuarial valuation), contributions from the multi-employers totaled \$11,949,881 and affected employees contributed \$2,305,956 for an aggregate multi- employer/employee total of \$14,255,837.

*DC Plan* - This is a contributory, single employer defined contribution plan with assets of \$83,216,704 as of September 30,2009. County employees are required to contribute between 3.0% and 7.0% of covered payroll. The County provides contributions in an amount equal to ten percent (10.0%) of the eligible employees' annual covered payroll. During the year ending September 30, 2009, employer and employee contributions to the plan were \$3,382,800 and \$1,731,546, respectively.

*Other Post-Retirement Benefits* - In late 2004 the County established the County of Genesee Retiree Employees' Fringe Benefit Plan and Trust for the purpose of beginning to pre-fund health insurance benefits adopted by the County or approved by collective bargaining agreements for retirees eligible to receive retirement benefits from the County of Genesee Employee's Retirement System. The plan is constituted as a "voluntary employees' beneficiary association" (VEBA) under section 501 (cX9) of the Internal Revenue Code of 1986. Beginning in 2006 and 2007,all full-time permanent employees were required to contribute 1% of their pre-tax compensation. The employer is currently contributing 20.0% of gross salary expense. Net assets available for benefits reported at fair value were \$35,779,343 at September 30, 2009.

The Governmental Accounting Standards Board recently released Statement No. 45, Accounting and Reporting by Employers for Postemployment Benefits Other than Pensions. The new pronouncement provides guidance for local units of government in recognizing the cost of retiree health care, as well as "other" postemployment benefits (other than pensions). The new rules will cause the government-wide financial statements to recognize the cost of providing retiree health care coverage over the working life of the employee, rather than at the time the health care premiums are paid. The County performed an actuarial valuation of the other post-retirement benefits liability for the year ended September 30,2008. At that time the liability was determined to be \$ 192,768,118 with the computed contribution as a percentage of payroll (based on 30 year amortization of the unfunded liability) to be 26.96% or \$12,992,638.

The County's contributions to the VEBA trust for Other Post-Retirement Benefits during the fiscal years ended September 30,2008 and September 30,2009 resulted in contributions in excess of the actuarially required contribution (ARC). As of September 30,2009, this excess (OPEB Asset) was \$1,183,152.

DEBT STATEMENT(as of May 31,2010 and NOT including the Notes described herein)

The following table of direct debt includes bonds payable from ad valorem taxes that may be levied without limitation as to rate or amount (marked "UT"). Each series of bonds marked "LT" is payable in the first instance from a specified source and is payable from the general funds of the Issuer in the event of insufficiency of the specified source. The Issuer is not authorized to levy taxes beyond constitutional and statutory tax rate limitations with respect to the bonds marked "LT".

DIRECT DEBT

	Dated Date	Outstanding Gross Amount	Outstanding Net Amount
<i>General Obligation Bonds Sewer, Fenton Twp.-</i>			
Rolston/Ripley, LT Drain, Atlas Twp. Project	11/01/96	650,000	0
A#1610, LT Sewer, Fenton Twp. Project, LT	12/01/00	350,000	350,000
Capital Improvement, LT Sewer Fenton Twp. Ser	12/01/03	3,275,000	0
A&B, LT Sewer Refunding, LT Sewer Refunding,	11/01/04	1,890,000	1,890,000
Lt. Morris, LT Drain, Meyers, LT Sewer, Western	12/01/04	10,675,000	0
Trunk No. 1, LT Drain, Howland, LT Sewer	02/01/05	8,045,000	0
Refunding No. 3, LT Sewer, Sewage Disposal	12/22/05	2,405,000	0
	08/01/06	810,000	273,456
SUB-TOTAL GENERAL OBLIGATION BONDS	09/01/06	3,195,000	0
	09/01/07	1,200,000	894,840
<i>Building Authority Bonds Refunding, Series 1998, LT</i>			
Burton Health Center, LT Building Authority, LT	11/16/07	5,185,000	0
Building Authority, LT Brownfield, LT	02/12/09	15,000,000	fl
Building Authority, Refunding, LT		\$52,680,000	\$ 3,408,296
Brownfield Redevel, Ref. LT			
SUB-TOTAL BUILDING AUTHORITY BONDS	07/01/98	460,000	460,000
	09/01/01	470,000	470,000
TOTAL GENERAL OBLIGATION BONDS	03/01/02	1,975,000	1,975,000
<i>Revenue Bonds with GO Pledge Sewer, Interceptors</i>			
and Treatment Fac., LT Sewer, Interceptors and	12/01/02	3,495,000	3,495,000
Treatment Fac., LT Sewer, Western Trunk Relief,	02/16/05	4,890,000	4,890,000
LT Water, LT Water, LT Water, LT	06/23/05	11,810,000	11,810,000
Sewer, Series 2005A- SRF	11/20/07	12,930,000	12-930,000
		\$36,030,000	\$36,030,000
		\$88,710,000	\$39,438,296
	08/01/00	2,750,000	2,750,000
	05/01/02	6,245,000	6,245,000
	08/01/03	4,320,000	4,320,000
	08/01/03	5,425,000	5,425,000
	10/01/03	16,790,000	16,790,000
	09/01/04	14,145,000	14,145,000
	06/23/05	19,285,000	19,285,000

Sewer, Series 2005B - SRF	09/22/05	12,795,000	12,795,000
Sewer, Series 2006A - SRF	09/21/06	2,575,000	2,575,000
Sewer, Series 2006B - SRF	12/14/06	6,355,000	6,355,000
Sewer, Series 2006C - SRF	12/14/06	3,960,000	3,960,000
Water, Series 2007, LT	01/01/07	5,700,000	5,700,000
Sewer, Northeast Ext, Series B, LT	09/01/07	7,760,000	7,760,000
Sewer, Northeast Ext, 2007A, LT	09/20/07	9,595,000	9,595,000
Sewer District No. 3, LT	12/01/07	5,600,000	5,600,000
Sewer	01/22/10	1,089,000	1,089,000
Water &. Sewer	01/22/10	14,544,000	14,544,000
<b>TOTAL REVENUE BONDS</b>		<b>5138,933,000</b>	<b>\$138,933,000</b>
<i>Michigan Transportation Fund Bonds</i>			
MTF Notes of 2000, NO COUNTY CREDIT	09/01/00	100,000	100,000
MTF Notes of 2001, NO COUNTY CREDIT	09/01/01	250,000	250,000
MTF Notes of 2002, NO COUNTY CREDIT	09/01/02	75,000	75,000
MTF Notes, Ser. 2006A, NO COUNTY CREDIT	11/01/06	1,615,000	1,615,000
MTF Notes, Ser. 2006B, NO COUNTY CREDIT	11/01/06	260,000	260,000
MTF Notes, NO COUNTY CREDIT	10/01/07	3,660,000	3,660,000
MTF Notes, NO COUNTY CREDIT	08/01/08	3,725,000	3,725,000
MTF HWY Comprehensive Transportation	09/01/09	3,300,000	Q
<b>TOTAL MICHIGAN TRANSPORTATION FUND BONDS</b>		<b>\$12,985,000</b>	<b>\$9,685,000</b>
<b>TOTAL DIRECT DEBT</b>		<b>\$240,628,000</b>	<b>\$188,056,296</b>
Less; Self-Supporting Bonds (')		(\$3,408,296)	
Revenue Bonds		(138,933,000)	
Michigan Transportation Fund Bonds/Notes		foS&QQS)	( 152,026,2961
<b>NET DIRECT &amp; INDIRECT DEBT</b>			<b>\$36,030,000</b>
(') includes all water and sewer bonds and portion of the drain bonds.			
<b>OVERLAPPING DEBT</b>			
		<b>County's</b>	
<b>Municipality</b>		<b>Share</b>	
Cities		\$33,857,932	
Townships		49,981,884	
Villages		925,585	
School Districts		344,771,206	
Intermediate School Districts		2,372	
Community College		60,251,293	
Bishop Airport Authority		10,555,000	
<b>NET OVERLAPPING DEBT</b>			<b>500,345,272</b>
<b>NET DIRECT &amp; OVERLAPPING DEBT</b>			<b>\$536,375,272</b>

Source: Municipal Advisory Council of Michigan DEBT RATIOS *Per Capita* (428,790)

Net Direct and Indirect Debt	\$84.03
Net Direct and Overlapping Debt	\$1250.90

*Ratio to 2009 Taxable Valuation (\$1,386,079,390)*

Net Direct and Indirect Debt	0.32%
Net Direct and Overlapping Debt	4.71%

*Ratio to 2009 State Equalized Valuation (\$12,466,321,796)*

Net Direct and Indirect Debt	0.29%
Net Direct and Overlapping Debt	4.30%

0.14%  
2.15%

Ratio to 2009 Estimated True Cash Value (\$24,932,643,592) Net  
Direct and Indirect Debt Net Direct and Overlapping Debt

DEBT HISTORY

The County has no record of default.

FUTURE FINANCING

In May 2010 the County sold \$10,000,000, Tax Anticipation Notes (LTGO) for delivery on June 2. The County anticipates the issuance of various water and sewer bonds issues in the next twelve months.

VACATION LIABILITIES

As of September 30,2009, the County General fund balance sheet had vacation and other employee benefited liability of \$5,070,733.

SHORT TERM BORROWING

The County has in the years 1974 through 2008 issued short-term notes in order to establish the Delinquent Tax Revolving Fund. Notes issued in each of the above years have been in a face amount which has been less than the actual real property tax delinquency. The primary security for these notes is the collection of the delinquent taxes pledged to the payment of principal of and interest on the notes issued. The County has pledged its full faith and credit and limited taxing power to the payment of the principal and interest on notes issued since 1975. The County may or may not issue notes to fund the Delinquent Tax Revolving Fund in future years. As of January 12,2009, there is a total of \$7,500,000 outstanding for the 2008 Delinquent Tax Note.

LEASE OBLIGATIONS

The County is party to numerous operating leases, aggregate rental expenses which was approximately \$131,377 during the year ended September 30,2009, exclusive of the amount paid to a related organization.

LEGAL DEBT MARGIN (as of May 31,2010 including Bonds described herein)

2009 State Equalized Valuation - excluding IFT values	\$12,466,321,796
DebtLimit-10% ofState Equalized Valuation	1,246,632,180
Less; No County Credit Pledged Bonds/Notes Total	<u>(12,985,000)</u>
Subject to Debt Limit Additional Debt Which Could Be	<u>227,643,000</u>
Legally Incurred	<u>\$1,018,989,180</u>
Amount of Direct Debt Outstanding	\$240,628,000

# GENERAL ECONOMIC INFORMATION

## LOCATION AND AREA

Genesee County is located in the central-eastern portion of Michigan's lower peninsula, and covers an area of 643 square miles. The City of Flint is the county seat and center of residential, commercial, and industrial activity in the County,

The County is located the following distances from these commercial and industrial areas:

36 miles south of Bay City 50  
miles north of Ann Arbor  
67 miles west of Port Huron  
104 miles east of Grand Rapids

## FORM OF GOVERNMENT

The County is governed by legislative body consisting of nine members forming the County of Commissioners, each of whom is elected for terms of two years horn districts of approximately equal population. County officials include the County Treasurer, County Clerk, Register of Deeds, Prosecuting Attorney, Drain Commissioner, and Sheriff. These officials are elected at large for four-year terms.

Administration of the County is divided by the State of Michigan Constitution (the "State Constitution") among various officials all elected at large according to purpose and by various appointed officials. The County Treasurer is the chief custodian of the County moneys, collector of County taxes, Treasurer for the County Drainage Districts, disbursing agent for certain tax funds to local communities and school districts. The duties of the County Clerk and Register of Deeds are primarily record keeping in nature and include such duties as clerk of the Circuit Court and Board of Commissioners and keeping and maintaining records of births, deaths, marriages, discharges of military personnel, records of deeds, mortgages, surveys, recording of plats, notices of liens and bills of sales. The Prosecuting Attorney prosecutes violations of state criminal law within the County. The County Drain Commissioner administers the location, construction and maintenance of drains in the County. The Sheriffs duties involve the charge and custody of the County jail, the serving of processes, and law enforcement in unincorporated areas. The Board of Commissioners has created the office of County Controller. The County Controller is appointed by the Board of Commissioners and the responsibilities of the office include, but are not limited to: budget preparation and control; all accounting and auditing..

## POPULATION BY AGE

The 2000 U.S. Census estimate of population by age for Genesee County is as follows:

	Number	Percent
Total Population	436,141	100.00%
0 through 17 years	119,503	27.40
18 through 64 years	266,046	61.00
65 years and over	50,592	11.60
Median Age	35.0 years	

## INCOME

The 2000 U.S. Census estimate of household income for Genesee County is as follows:

HOUSEHOLDS BY INCOME	Number	Percent
Less than \$10,000	170,030	100.00%
\$10,000 to \$14,999	16,339	9.61
\$15,000 to \$24,999	10,812	6.36
\$25,000 to \$34,999	22,697	13.35
\$35,000 to \$49,999	21,572	12.69
\$50,000 to \$74,999	26,842	15.79
\$75,000 to \$99,999	34,260	20.15
\$100,000 to \$149,999	19,336	11.37
\$150,000 to \$199,999	13,311	7.83
\$200,000 or more	2,521	1.48
	2,340	1.37
Median Income		\$41,951

## EMPLOYMENT CHARACTERISTICS

The following companies located in the County offer employment opportunities for residents.

No. of Company	Product/Service	Employed
<i>Within Genesee County (500 or more employees)</i>		
General Motors Corp. <sup>1</sup>	Automotive parts & bodies	3,417
Genesys Health Care System	Health care	3,265
Hurley Medical Center	Medical center	2,650
Square D	Computer programming services	2,500
McLaren Health Care Corporation	Hospital <i>Si</i> other health care	2,500
Flint Metal Center, Vehicle Mfg. Operating Div.	Metal fabrication	2,180
Genesee County (full time employees)	Government	1,200
United States Postal Service	US Postal Service	1,200
General Motors Corp., Powertrain Div. <sup>1</sup>	Engines & gears & transmissions	1,200
Flint, City of	Municipality	1,100
Flint Community Schools	Educational services	1,000
Delphi Corp.* <sup>1</sup>	Spark plugs <i>Sc.</i> odometers	1,000
Meijer Inc.	Retail	1,000
GM Service and Parts Operations <sup>1</sup>	Automotive replacement parts	800
JPMorgan Chase Bank	Finance	800
Citizens Bank	Banking	780
Carman-Ainsworth Community Schools <sup>1</sup>	Education	777
Nu Vision Inc.	Optical goods retail	766
Peregrine	Manufacturing	684
Sears, Roebuck & Co.	Retail sales	600
United Retired Govt. Employees	Labor Organizations	600
Genova Products (HQ)	Plastic pipes	530
Vemco, Inc. <sup>1</sup>	Automobile parts <i>SL</i> accessories	500
TRW Automotive <sup>1</sup>	Brake systems	500
Creative Foam Corp.	Plastic products	500

<sup>1</sup> The approximate number of employees listed above are as reported in the sources indicated below. Because of reporting time lags and other factors inherent in collecting and reporting such information, the numbers may not reflect recent changes in employment levels, if any.

\* Delphi Automotive has filed for bankruptcy. The plant is still operational at this time.

Source: 2009 Michigan Manufacturers Directory, Manta Company Intelligence website, the Michigan Economic Development Council ("MEDC"), and individual employers.

**EMPLOYMENT BREAKDOWN**

The 2000 U. S. Census reports the occupational breakdown of persons 16 years and over for Genesee County i\$ as follows:

	Number	Percent
PERSONS BY OCCUPATION	192,969	100.00%
Professional Specialty Occupations	52,052	26.97
Service Occupations	31,865	16.51
Sales & Office Occupations	46,896	24.30
farming, Pishing, & Forestry Occupations	266	0.14
Construction & Maintenance Occupations	20,540	10.65
Transportation & Material Moving Occupations	41,350	21.43

The breakdown by industry for persons 16 years and over for Genesee County is as follows:

	Number	Percent
PERSONS BY INDUSTRY	192,969	100.00%
Agriculture, Forestry, Fishing, Hunting & Mining	588	0.30
Construction	12,115	6.28
Manufacturing	46,441	24.07
Wholesale Trade	5,578	2.89
Retail Trade	24,762	12.83
Transportation	6,727	3.49
Information	4,019	2.08
Finance, Insurance, & Real Estate	9,122	4.73
Professional & Management Services	13,345	6.92
Educational, Health & Social Services	40,757	21.12
Arts, Entertainment, Recreation & Food Services	14,587	7.56
Other Professional and Related Services	9,752	5.05
Public Administration	5,176	2.68

**UNEMPLOYMENT**

The Michigan Employment Security Commission, Research and Statistical Division, reports unemployment averages for the County of Genesee as compared to the State of Michigan as follows:

	County of Qen^ee	State of Michigan
2010 YTD (March)	16.3%	14.9%
2009 Annual Average	15.8	14.0
2008 Annual Average	10.6	8.3
2007 Annual Average	8.2	7.1
2006 Annual Average	8.1	6.9

◆Not Seasonally Adjusted

**RETAIL SALES**

A breakdown of retail sales (000's omitted) for Genesee County as compared to the State of Michigan, as reported in

**NUMBER OF STORES**

Product/Service	County of Genesee	State of Michigan	County of Genesee	State of <b>Midiira</b>
Auto	179	4,126	\$2,082,641	\$42,559,473
Furniture	78	2,052	211,751	4,215,794
Electrical Appliance	62	1,455	163,593	3,899,556
Lumber & Hardware	152	3,541	621,765	14,597,669
Food	297	6,151	774,230	17,098,378
Drugs	153	2,869	522,960	8,770,964
Gasoline	186	4,315	684,604	9,374,034
Apparel	236	5,144	315,077	6,613,587
General Merchandise	<i>n</i>	1,214	1,429,869	25,501,528
<b>TOTALS</b>	<b>1,416</b>	<b>30,867</b>	<b>£6,806,490</b>	<b>ux&amp;m</b>

**BANKING**

The following banks serve the financial needs of the County's residents according to the Accuity American Financial Directory, July - December 2009.

Bank	Main Office	Total State-Wide Deposits
Bank of America	Charlotte, NC	N/A
Fifth Third Bank	Cincinnati, OH	N/A
Citizens Bank	Flint, MI	\$8,907,742,000
BestBank, A Division of Guaranty Bank	Milwaukee, WI	N/A
Comerica Bank	Dallas, TX	N/A
Flagstar Bank, FSB	Troy, MI	7,334,926,000
Peoples State Bank	Hamtramck, MI	411,791,000
Chemical Bank	Midland, MI	2,979,052,000
The State Bank	Fenton, MI	332,805,000
Community State Bank	St. Charles, MI	167,666,000
Davison State Bank	Davison, MI	40,365,000
JPMorgan Chase Bank, National Association	Columbus, OH	N/A
National City Bank (PNC Bank)	Camp Hill, PA	N/A
Independent Bank	Ionia, MI	2,098,169,000
Oxford Bank	Oxford, MI	340,929,000

**ESTIMATE OF SALES**

the 2006 Editor & Publishers Market Guide is as follows;

(000's omitted)

## APPENDIX A - BUDGET

Genesee County, Michigan  
 Summary of General Fund Adopted and Amended Revenue and Expenditure Budget  
 Fiscal Years 2009 and 2010

	2009-2010 <u>Adopted Budget</u>	2009-2010 <u>Amended Budget</u>
Revenues		
Property Taxes	\$57,343,241	\$57,343,241
Licenses and Permits	518,300	518,300
Intergovernmental Revenues	22,263,621	22,300,256
Charges for Services	8,536,539	8,536,539
Fines and Forfeitures	3,014,660	3,014,660
Miscellaneous Revenues	1,033,850	1,033,850
TOTAL REVENUE	\$92,710,211	\$92,746,846
Expenditures		
Total Salaries	\$25,742,390	\$25,874,774
Benefits	17,810,826	17,813,051
Supplies	1,299,344	1,299,344
Services	8,347,496	8,349,980
Travel	80,010	80,010
Capital Outlay	70,920	70,920
Other	32,989,283	32,850,859
Fixed intragovernmental Charges	5,403,295	5,439,761
Intragovernmental Charges	966,647	968,147
TOTAL EXPENDITURES	\$92,710,211	\$92,746,846
Projected Excess Revenues Over Expenditures (Change in Fund Balance)	0	0
Fund Balance at 10/1 <sup>(1)</sup>	10,928,844	5,329,381
Fund Balance at 9/30	\$10,928,844	\$5,329,381

<sup>(1)</sup> Actual Fund Balance as of 10/1/2008

<sup>(2)</sup> Actual Fund Balance as of 10/1/2009

# APPENDIX B - AUDIT SUMMARIES

Genesee County, Michigan  
**Summary of General Fund Revenue and Expenditure Budgets**  
**Fiscal Years 2007, 2008 and 200B**

	2007 Budoet	2008 Budoet	2009 Budget
<b>Revenues</b>			
Property Taxes	\$51,759,821	\$55,128,226	\$51,867,756
Licenses and Permits	463,936	491,996	556,600
Intergovernmental Revenues	6,601,830	6,874,256	5,610,505
Charges tor Services	10,177,944	9,710,016	8,773,323
Fines and Forfeitures	2,283,212	2,104,224	1,877,681
Miscellaneous Revenues	1,494,370	2,827,039	1,223,980
	<hr/>	<hr/>	<hr/>
REVENUE	\$72,781,113	\$77,135,757	\$70,109,845
<b>Expenditures</b>			
Legislative	\$1,074,904	\$1,211,126	\$1,024,843
Management and Planning	9,972,423	10,427,174	10,699,248
Administration of Justice	24,152,180	25,870,013	25,950,423
Law Enforce/Community Protection	23,621,335	24,323,680	24,985,471
Human Services	206,071	235,468	226,850
Community Enticement and Development	613,939	478,251	426,788
General Support Services	278,953	279,291	247,644
Other	10,724,776	5,953,655	2,463,565
Capital Outlay	167,201	80,837	200,532
	<hr/>	<hr/>	<hr/>
TOTAL EXPENDITURES	\$70,811,782	\$66,859,495	\$66,227,184
REVENUE OVER(UNDER) EXPENDITURES	\$1,969,331	\$8,276,262	\$3,882,661
<b>Other Financing Sources (Uses)</b>			
Transfers In	\$28,175,004	\$26,928,176	\$25,277,394
Transfers out	(32,154,811)	(35,664,748)	(34,759,518)
Total Financing Sources (Uses)	(3,979,807)	(8,736,572)	(9,482,124)
Net Change in Fund Balance	(\$2,010,476)	(\$460,310)	(\$5,599,463)
Fund Balance at 10/1	\$13,399,630	\$11,389,154	\$10,928,644
	<hr/>	<hr/>	<hr/>
Fund Balance at S/30	\$11,389,154	\$10,928,644	\$5,329,381

BODMAN LLP  
& 11TH FLOOR AT FORO FIELD  
1901 ST. ANTOINE STREET  
DETROIT, MICHIGAN 48226  
313\*393.7879 FAX 313-259.7777

June , 2010

Ms. Jill McKenzie, Acting Treasurer County of Genesee 1101 Beach Street, Suite  
144 Flint, MI 48502-1475

Dear Ms. McKenzie:

We have acted as bond counsel in connection with the issuance by the County of Genesee, State of Michigan (the "County"), of its "General Obligation Limited Tax Notes, Series 2010 (Taxable Obligations)" dated the date hereof, in the aggregate principal amount of \$46,350,000 (the "Notes"). We have examined the law and such certified proceedings and other papers as we deem necessary to render this opinion.

The Notes have been issued under and pursuant to Act 206, Public Acts of Michigan, 1983, as amended, for the purpose of funding in part the County delinquent tax revolving fund for the tax year 2009.

As to questions of fact material to our opinion we have relied upon certified proceedings and other certifications of public officials furnished to us without undertaking to verify the same by independent investigation.

Based upon the foregoing, we are of the opinion, under existing laws, as follows:

1. The Notes are the valid and legally binding obligations of the County, primarily payable from the following sources: (1) the collections of the 2009 delinquent real property taxes that were returned to the County as delinquent and were uncollected as of March 1, 2010, and against which the County has borrowed, together with all interest thereon; (2) all of the County property tax administration fees on such delinquent taxes once the expenses of borrowing have been paid, and (3) any amounts that are received by the County from any local taxing unit within the County to pay such unit's obligation to the County because of the uncollectibility of such 2009 delinquent taxes within that unit.

2. The full faith and credit of the County have been pledged for the payment of the principal of and interest on the Notes when due. The County, however, does not have the power to levy any tax for the payment of the Notes in excess of its constitutional and statutory limits.

3. The interest on the notes is included in gross income for federal income tax purposes.

Ms Jill McKenzie, Acting Treasurer

June \_\_ , 2010

Page 2

4. The Notes and the interest thereon are exempt from all taxation by the State of Michigan or a taxing authority in the State of Michigan, except estate taxes and taxes on gains realized from the sale, payment or other disposition thereof.

It is understood that the rights of the holders of the Notes and the enforceability thereof may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that their enforcement also may be subject to the exercise of judicial discretion in appropriate cases.

Respectfully submitted,

BODMAN LLP

By: -----  
Carl F. Stafford, a partner

CFS/lc

## CONTINUING DISCLOSURE CERTIFICATE

COUNTY OF GENESEE  
\$46,350,000  
General Obligation Limited Tax Notes  
Series 2010  
(Taxable Obligations)

This Continuing Disclosure Certificate (the "Disclosure Certificate") is executed and delivered by the County of Genesee, State of Michigan (the "County") in connection with the issuance of its \$46,350,000 General Obligation Limited Tax Notes Series 2010 (Taxable Obligations) (the "Notes"). This Disclosure Certificate is being executed and delivered pursuant to a resolution approved by the Board of Commissioners of the County on April 27, 2010 (the "Resolution"). The County covenants and agrees as follows;

### SECTION 1. Purpose of the Disclosure Certificate.

(a) This Disclosure Certificate is being executed and delivered by the County for the benefit of the Noteholders and the Beneficial Owners and in order to assist the Participating Underwriters in complying with subsection (b)(5) of the Rule.

(b) In consideration of the purchase and acceptance of any and all of the Notes by those who shall hold the same or shall own beneficial ownership interests therein from time to time, this Disclosure Certificate shall be deemed to be and shall constitute a contract between the County and the Noteholders and Beneficial Owners from time to time of the Notes, and the covenants and agreements herein set forth to be performed on behalf of the County shall be for the benefit of the Noteholders and Beneficial Owners of any and all of the Notes.

SECTION 2. Definitions. The following capitalized terms shall have the following meanings in this Disclosure Certificate;

"Annual Report" shall mean any Annual Report provided by the County pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

"Beneficial Owner" shall mean any person which has or shares the power, directly or indirectly, to make investment decisions concerning ownership of any Notes (including persons holding Notes through nominees, depositories or other intermediaries).

"Dissemination Agent" shall mean the County, or any successor Dissemination Agent appointed in writing by the County and which has filed with the County a written acceptance of such designation.



"EMMA" shall mean the Electronic Municipal Market Access system of the MSRB. As of the date of this Disclosure Certificate, the EMMA Internet Web site address is <http://www.emma.msrb.org>.

"GAAP" shall mean generally accepted accounting principles, as such principles are prescribed, in part, by the Financial Accounting Standards Board and modified by the Government Accounting Standards Board and in effect from time to time.

"Listed Events" shall mean any of the events listed in Section 5(a) of this Disclosure Certificate.

"MSRB" shall mean the Municipal Securities Rulemaking Board. As of the date of this Disclosure Certificate, the address and telephone numbers of the MSRB are as follows;

CDI  
1640 King Street, Suite 300  
Alexandria, Virginia 22314-2719  
Tel: (202) 223-9503 Fax: (703)  
683-1930

"Official Statement" shall mean the Official Statement for the Notes dated May \_\_\_\_\_, 2010.

"Participating Underwriter" shall mean any of the original underwriters of the Notes required to comply with the Rule in connection with the offering of the Notes.

"Rule" shall mean Rule 15c2-12 promulgated by the SEC pursuant to the 1934 Act, as the same may be amended from time to time, together with all interpretive guidances or other official interpretations or explanations thereof that are promulgated by the SEC.

"SEC" shall mean the Securities and Exchange Commission.

"Securities Counsel" shall mean legal counsel expert in federal securities law.

"State" shall mean the State of Michigan.

"1934 Act" shall mean the Securities Exchange Act of 1934, as amended.

### SECTION 3. Provision of Annual Reports.

(a) Each year, the County shall provide, or shall cause the Dissemination Agent to provide, not later than nine months after the first day of the County's fiscal year, commencing with the County's Annual Report for the fiscal year ending September 30, 2009, to the MSRB an Annual Report for the preceding fiscal year which is consistent with the requirements of Section 4 of this Disclosure Certificate. Currently, the County's fiscal year commences October 1. Not later than fifteen (15) business days prior to said date, the County shall provide the Annual Report to the Dissemination Agent (if other than the County). In each case, the Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Disclosure Certificate; provided, however, that if the audited financial statements of the County are not

available by the deadline for filing the Annual Report, they shall be provided when and if available, and unaudited financial statements in a format similar to the audited financial statements most recently prepared for the County shall be included in the Annual Report.

(b) If the County is unable to provide to the MSRB an Annual Report by the date required in subsection (a), the County shall file a notice, in a timely manner, to the MSRB.

(c) If the County's fiscal year changes, the County shall file written notice of such change to MSRB.

(d) If the Dissemination Agent is other than the County, file a report with the County certifying that the Annual Report has been provided pursuant to this Disclosure Certificate, stating the date it was provided.

(f) In connection with providing the Annual Report, the Dissemination Agent (if other than the County) is not obligated or responsible under this Disclosure Certificate to determine the sufficiency of the content of the Annual Report for purposes of the Rule or any other state or federal securities law, rule, regulation or administrative order.

SECTION 4. Content of Annual Reports. The County's Annual Report shall contain or incorporate by reference the following:

(a) The audited financial statements of the County for its fiscal year immediately preceding the due date of the Annual Report.

(b) An update of the financial information and operating data relating to the County of the same nature as that contained in the following tables in the Official Statement: "PROPERTY VALUATIONS-Historical Valuation"; "MAJOR TAXPAYERS"; "TAX RATES (per \$1,000 of Valuation)-Genesee County"; "TAX LEVIES AND COLLECTIONS"; "REVENUES FROM THE STATE OF MICHIGAN - General Fund Revenues from the State"; "LABOR FORCE"; "RETIREMENT PLANS"-Update as of the Current year; "DEBT STATEMENT-Direct Debt"; and "LEGAL DEBT MARGIN."

The County's financial statements shall be audited and prepared in accordance with GAAP with such changes as may be required from time to time in accordance with State law.

Any or all of the items listed above may be included by specific reference to other documents available to the public on the MSRBs Internet Web site or filed with the SEC, The County shall clearly identify each such other document so included by reference,

SECTION 5. Reporting of Significant Events.

(a) The County covenants to provide, or cause to be provided, notice of any of the following events with respect to the Notes, if material, in a timely manner and in accordance with the Rule:

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions or events affecting the tax-exempt status of the security;
- (7) Modifications to rights of security holders;
- (8) Note calls;
- (9) Defeasances;
- (10) Release, substitution, or sale of property securing repayment of the securities;  
and
- (11) Rating changes.

(b) Whenever the County obtains knowledge of the occurrence of a Listed Event, the County shall as soon as possible determine if such event would be material under applicable federal securities laws. The County covenants that its determination of materiality will be in conformance with federal securities laws.

(c) If the County determines that the occurrence of a Listed Event would be material under applicable federal securities laws, the County shall promptly cause a notice of such occurrence to be filed with the MSRB. In connection with providing a notice of the occurrence of a Listed Event described in subsection (a)(9), the County shall include in the notice explicit disclosure as to whether the Notes have been escrowed to maturity or escrowed to call, as well as appropriate disclosure of the timing of maturity or call.

(d) In connection with providing a notice of the occurrence of a Listed Event, the Dissemination Agent (if other than the County), solely in its capacity as such, is not obligated or responsible under this Disclosure Certificate to determine the sufficiency of the content of the notice for purposes of the Rule or any other state or federal securities law, rule, regulation or administrative order.

(e) The County acknowledges that the “rating changes” referred to above in Section 5(a)(1) of this Disclosure Certificate may include, without limitation, any change in any rating on the Notes or other indebtedness for which the County is liable.

(f) The County acknowledges that it is not required to provide a notice of a Listed Event with respect to credit enhancement when the credit enhancement is added after the primary offering of the Notes, the County does not apply for or participate in obtaining such credit enhancement, and such credit enhancement is not described in the Official Statement.

SECTION 6. Mandatory Electronic Filing with EMMA: All filings with the MSRB under this Disclosure Certificate shall be made by electronically transmitting such filings through the EMMA Dataport at <http://www.emnia.msrb.org> as provided by the amendments to the Rule adopted by the SEC in Securities Exchange Act Release No. 59062 on December 5, 2008.

SECTION 7. Termination of Reporting Obligation.

(a) The County's obligations under this Disclosure Certificate shall terminate upon the legal defeasance of the Resolution or the prior redemption or payment in full of all of the Notes. If the County's obligation to pay the principal of and interest on the Notes is assumed in full by some other entity, such entity shall be responsible for compliance with the Disclosure Certificate in the same manner as if it were the County, and the County shall have no further responsibility hereunder.

(b) This Disclosure Certificate, or any provision hereof, shall be null and void in the event that the County (i) receives an opinion of Securities Counsel, addressed to the County, to the effect that those portions of the Rule, which require such provisions of this Disclosure Certificate, do not or no longer apply to the Notes, whether because such portions of the Rule are invalid, have been repealed, amended or modified, or are otherwise deemed to be inapplicable to the Notes, as shall be specified in such opinion, and (ii) delivers notice to such effect to the MSRB.

SECTION 8. Dissemination Agent. The County, from time to time, may appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any such Agent, with or without appointing a successor Disseminating Agent. The initial Dissemination Agent shall be the County. Except as otherwise provided in this Disclosure Certificate, the Dissemination Agent (if other than the County) shall not be responsible in any manner for the content of any notice or report prepared by the County pursuant to this Disclosure Certificate.

SECTION 9. Amendment: Waiver, (a) Notwithstanding any other provision of this Disclosure Certificate, this Disclosure Certificate may be amended, and any provision of this Disclosure Certificate may be waived, provided that the following conditions are satisfied:

(1) If the amendment relates to the provisions of Section 3(a), (b), (c), 4 or 5(a), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of an obligated person with respect to the Notes, or the type of business conducted;

(2) This Disclosure Certificate, as so amended or taking into account such waiver, would, in the opinion of Securities Counsel, have complied with the requirements

of the Rule at the time of the original issuance of the Notes, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(3) The amendment or waiver does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the Noteholders.

(b) In the event of any amendment to, or waiver of a provision of, this Disclosure Certificate, the County shall describe such amendment or waiver in the next Annual Report, and shall include a narrative explanation of the reason for the amendment or waiver. In particular, if the amendment results in a change to the annual financial information required to be included in the Annual Report pursuant to Section 4 of this Disclosure Certificate, the first Annual Report that contains the amended operating data or financial information shall explain, in narrative form, the reasons for the amendment and the impact of such change in the type of operating data or financial information being provided. Further, if the annual financial information required to be provided in the Annual Report can no longer be generated because the operations to which it related have been materially changed or discontinued, a statement to that effect shall be included in the first Annual Report that does not include such information.

(c) If the amendment results in a change to the accounting principles to be followed in preparing financial statements as set forth in Section 4 of this Disclosure Certificate, the Annual Report for the year in which the change is made shall include a comparison between the financial statements or information prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles. The comparison shall include a qualitative discussion of such differences and the impact of the changes on the presentation of the financial information. To the extent reasonably feasible, the comparison shall also be quantitative. A notice of the change in accounting principles shall be sent by the County, or the Dissemination Agent (if other than the County) at the written direction of the County, to the MSRB.

SECTION 10. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the County from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the County chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Certificate, the County shall have no obligation under this Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

SECTION 11. Failure to Comply. In the event of a failure of the County or the Dissemination Agent (if other than the County) to comply with any provision of this Disclosure Certificate, any Noteholder or Beneficial Owner may bring an action to obtain specific performance of the obligations of the County or the Dissemination Agent (if other than the County) under this Disclosure Certificate, but no person or entity shall be entitled to recover monetary damages under any circumstances, and any failure to comply with the obligations under this Disclosure Certificate shall not constitute a default with respect to the Notes or under the Resolution.

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SECTION 12. Duties of Dissemination Agent. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate.

SECTION 13. Beneficiaries, This Disclosure Certificate shall inure solely to the benefit of the County, the Dissemination Agent, the Participating Underwriters, the Noteholders and the Beneficial Owners, and shall create no rights in any other person or entity.

SECTION 14. Transmission of Information and Notices. Unless otherwise required by law or this Disclosure Certificate, and, in the sole determination of the County or the Dissemination Agent, as applicable, subject to technical and economic feasibility, the County or the Dissemination Agent, as applicable, shall employ such methods of information and notice transmission as shall be requested or recommended by the herein designated recipients of such information and notices.

SECTION 15. Additional Disclosure Obligations. The County acknowledges and understands that other State and federal laws, including, without limitation, the Securities Act of 1933, as amended, and Rule 10b-5 promulgated by the SEC pursuant to the 1934 Act, may apply to the County, and that under some circumstances, compliance with this Disclosure Certificate, without additional disclosures or other action, may not fully discharge all duties and obligations of the County under such laws.

SECTION 16. Governing Law. This Disclosure Certificate shall be construed and interpreted in accordance with the laws of the State, and any suits and actions arising out of this Disclosure Certificate shall be instituted in a court of competent jurisdiction in the State. Notwithstanding the foregoing, to the extent this Disclosure Certificate addresses matters of federal securities laws, including the Rule, this Disclosure Certificate shall be construed and interpreted in accordance with such federal securities laws and official interpretations thereof.

COUNTY OF GENESEE

By:

Its:

Date: June \_\_\_\_,2010

**Overview of DTANs**

**Prepared by the Office of the Cuyahoga County Prosecutor**

**February 25, 2015**

- Delinquent Tax Anticipation Notes (“DTANs”) are authorized under R.C. 133.082 and are what the name implies – notes issued in anticipation of collection of delinquent taxes. DTANs are issued by the County at the request of the Treasurer.
- DTANs are special obligations of the County and NOT secured by the County’s credit; the only security is a lien on delinquent taxes, and the penalties and interest on those delinquent taxes.
- R.C. 133.082 includes certain limits on the amount of DTANs the County can issue, when DTANs can be issue, and the length of the term of any DTAN:
  - 90% of the difference between the current delinquent taxes and the amount of current delinquent tax the Treasurer expects to be collected by the date the notes are issued;
  - DTANs must be issued no later than the 31<sup>st</sup> of December of the third year following the year in which the current taxes were not paid when due, and must mature by the 31<sup>st</sup> of December of the third year following the year in which the current taxes are due
- Proceeds of the sale of DTANs will be used by the Treasurer to pay taxes to the various taxing districts within the County as if those taxes had been paid when due.
  - Because those districts are paid when due, the penalties and interest on those taxes, when collected, remain with the County.
  - The County then pays the penalties and interest to the County Land Reutilization Corporation (“CCLRC”) for its operating expenses.
  - The delinquent taxes, when collected, are used to service the County DTAN debt obligation.
- Note that, under Section 704.04 of the County Code, the 5% DTAC fee now collected to support the CCLRC would be eliminated if the Treasurer requests DTANs be issued. This section of the County Code will have to be addressed if the County intends to issue DTANs in the future.