

**RESOLUTION NO. 744 -2014, ADOPTING LOCAL LAW
NO. 27 -2014, A LOCAL LAW TO MODIFY COUNTY'S
HARDSHIP PROPERTY REDEMPTION PROCESS**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on May 13, 2014, a proposed local law entitled, "**A LOCAL LAW TO MODIFY COUNTY'S HARDSHIP PROPERTY REDEMPTION PROCESS**"; now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. 27 -2014, SUFFOLK COUNTY, NEW YORK

**A LOCAL LAW TO MODIFY COUNTY'S HARDSHIP
PROPERTY REDEMPTION PROCESS**

**BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF
SUFFOLK**, as follows:

Section 1. Legislative Intent.

This Legislature hereby finds and determines that Section 215 of New York County Law authorizes the County of Suffolk to establish policies and procedures for the disposition of real property acquired through tax default.

This Legislature further finds that the County of Suffolk has adopted a policy that allows a former owner of a tax default property to redeem his or her property as long as their application is submitted for redemption within six months after the County takes a tax deed and he or she pays all back taxes, penalties and interest. These redemptions are known colloquially as "Local Law 16" redemptions.

This Legislature further finds that former owners who seek to reclaim their property after this six-month period has expired, must meet certain strict "hardship" criteria that is set forth in Chapter 29 of the SUFFOLK COUNTY CODE. The applicant must demonstrate that non-payment resulted from personal illness, error in government record keeping, loss of employment, military deployment, or a wrongful failure by a mortgage lender to pay the taxes. This hardship redemption is known colloquially as a "Section 215" redemption.

This Legislature also finds that the strict Section 215 hardship criteria was adopted by the County in 1990 upon a legislative finding that disposing of tax default properties via the public auction process "would generate far greater revenue than is generated by the current Section 215 procedure whereby payment for only back taxes, interest and penalty is obtained by the County."

This Legislature believes that the County's policy governing tax delinquent properties should not be driven solely by a desire to maximize revenues.

This Legislature further finds that hardship comes in many forms and the County's current law is not flexible enough to allow this Legislature to address many legitimate hardship claims.

This Legislature also determines that adopting a more flexible policy that allows former owners to reclaim their properties is in the best interests of the County of Suffolk since it would return properties to the tax rolls more quickly than the auction process does and reduce County costs associated with the management of the large inventory of such properties.

This Legislature also determines that several technical changes to Chapter 29 recommended by the Division of Real Property Acquisition and Management will help clarify and streamline the hardship redemption process.

Therefore, the purpose of this law is to expand the hardship criteria for property redemption under Chapter 29 of the SUFFOLK COUNTY CODE, and to clarify and streamline the hardship redemption process.

Section 2. Amendments.

Chapter 29 of the SUFFOLK COUNTY CODE is hereby amended as follows:

Chapter 29. CONVEYANCE OF PROPERTY.

Article I. Procedures.

* * * *

§ 29-2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

APPLICANT

The owner of record immediately preceding in time the tax deed held by the County of Suffolk, or an assignee, mortgagee or judgment creditor of such owner of record.

DIRECTOR

The Director of the Division of Real Property Acquisition and Management in the County Department of [Environment and Energy] Economic Development and Planning.

CONVEYANCE

The transfer by quitclaim deed of a parcel of real estate located within the County of Suffolk, title to which has vested in the County of Suffolk via the Suffolk County Tax Act, as amended, for nonpayment of taxes, and the period of time for redemption of which has expired under Administrative Code § A4[2]0-3, which transfer is authorized by Subdivision 8 of § 215 of the New York County Law.

DIVISION

Division of Real Property Acquisition and Management in the County Department of Economic Development and Planning.

IMMEDIATE FAMILY

Spouse, issue, parent, or a grandchild residing with and receiving monetary support from the applicant. "Issue" shall include adopted children.

LEGISLATURE

The Suffolk County Legislature.

§ 29-3. Conveyance procedure.

[A. Upon receipt of an application for a conveyance, together with the requisite appraisal fee, the Commissioner shall cause to be prepared a review appraisal of such parcel. Upon completion of such an appraisal, a copy shall be forwarded to the Clerk of the Legislature for distribution to each member of the Legislature. The Commissioner shall take no action on such application unless the appraisal fee has first been paid by the applicant.]

[B.] A. Prior to action by the Legislature to approve a conveyance, an applicant shall complete an application prescribed by the Office of Legislative Counsel of the County Legislature, [including] which application shall include a sworn affidavit as to the explanation of the nonpayment of taxes together with supporting documentation, [and shall submit] a title abstract for the subject parcel covering the prior 10 years and evidence of the applicant's ability to make all payments required for conveyance under this chapter. Documents evidencing an ability to pay shall include, but not be limited to, a fully executed contract of sale for the parcel or a fully executed loan agreement. The applicant shall pay the requisite administrative fee established by the Director pursuant to Section 29-5 of this chapter at the time the application is submitted to the Office of Legislative Counsel.[, together with the requisite appraisal fee established by the Commissioner pursuant to § 29-5 of this article. A copy of the Suffolk County Tax Map covering the parcel in question shall be filed with the application, and a form, attached hereto as Exhibit B, shall be completed by the County Department of Environment and Energy and filed with the Clerk of the County Legislature for each resolution filed to approve a conveyance.]

(1) Legislative Counsel will review each application for conveyance and the supporting documentation submitted by the applicant. If necessary, Legislative Counsel shall request additional information and supporting documentation from an applicant. Applicants shall submit all requested information and documentation, to the satisfaction of Legislative Counsel, within 60 days from the date the application for conveyance is originally submitted to the Office of Legislative Counsel. In the event such information and documentation is not submitted within this 60 day period, the application shall be deemed denied, the applicant will be afforded no further opportunity to apply for a conveyance and the Division shall proceed to dispose of the property.

(2) The Division will cooperate with the Office of Legislative Counsel and provide such information as may be necessary for Legislative Counsel to complete its review.

(3) The Office of Legislative Counsel shall immediately notify the Division if an applicant is not an immediate prior owner of record so that the appraisal required by paragraph (E) of this section can be performed in a timely manner.

(4) Upon completing its review, the Office of Legislative Counsel will provide the Division with a copy of the application and all supporting documentation and advise the Division whether a resolution to approve the conveyance will be introduced in the County Legislature.

[C] B. [An explanation] Documentation submitted by an applicant establishing [one or more of the following] a hardship condition[s as an appropriate and sufficient basis] as a primary cause of the non-payment of taxes and/or a finding by the Legislature that the County's failure to convey the property to the applicant would be unjust and inequitable shall be required before the Legislature may approve a conveyance to an applicant who is the immediate prior owner of record[:]. Hardships sufficient to justify a conveyance shall include, but not be limited to, the following:

* * * *

[D. No resolution authorizing a conveyance shall be approved by the Legislature unless the applicant makes a payment of at least any and all tax arrears, interest, penalties, administrative fees, recording fees, and/or rent, as calculated by the Commissioner, in addition to complying with all other requirements of this article and § 215 of the New York County Law, nor shall such a resolution be approved unless any and all indebtedness attributable to any former owner and payable to the Suffolk County Department of Social Services is satisfied or, in the alternative, unless the Commissioner of the Department of Social Services consents, in writing, to accept from the social services recipient only a repayment agreement or new bond and mortgage on any and all such property in lieu of payment of any or all of the indebtedness.]

[E.] C. No resolution authorizing a conveyance shall be approved by the Legislature unless and until a written nonbinding recommendation from the [County Department of Environment and Energy] Division concerning said conveyance is filed with the Clerk of the County Legislature [on the form attached hereto as Exhibit B]. Such recommendation shall include parcel information (tax map number, address, date of recording of the County's tax deed), applicant information, the nature of the applicant's interest in the property (immediate prior owner, assignee, mortgagee or judgment creditor), whether proper documentation has been submitted to support the applicant's right to a conveyance and payment information (the amount owed, whether payment has been received or evidence of ability to make the payment has been provided). The Division will file said recommendation within 15 days after such a resolution is laid on the table.

(1) The County Departments of [Environment and Energy] Economic Development and Planning; Parks, Recreation and Conservation; and Public Works[:]; and Planning] shall each review such proposed application within 30 days subsequent to the filing of such an application with the [Department of Environment and Energy] Division and may issue, in writing, comments to the County Executive or the County Legislature concerning such application within said thirty-day time frame. Such comments shall be advisory in nature and nonbinding on the County Legislature.

[(2) The County Department of Environment and Energy shall annually submit to the County Executive and County Legislature a written list of all parcels owned by the County of Suffolk available for public auction no later than December 31 of each year, indicating the location, size and status of each such property.]

[3](2) In addition, no resolution authorizing a conveyance shall be approved by the Legislature unless such application has been filed no later than 24 months immediately subsequent to the expiration of the period of time for redemption allowed under Administrative Code section A4[2]0-3.

D. Legislative resolutions authorizing a conveyance to the immediate prior owner of record shall include a provision requiring the applicant to pay to the County, within 60 days of the resolution's effective date, any and all tax arrears, interest, penalties, administrative fees, recording fees and/or rent, and all other charges set forth at § 40-3(F) of the Suffolk County Administrative Code, as calculated by the Division, as well as any indebtedness attributable to any former owners and payable to the Suffolk County Department of Social Services. In the event the County does not receive all required payments within 60 days after the effective date of an authorizing resolution, the conveyance shall not be made to the applicant and the Division shall proceed to dispose of the subject parcel. However, the Director may extend this 60 day deadline for receipt of full payment for one additional 15 day period.

[F.] E. An applicant who is not an immediate prior owner of record of the parcel in question shall not obtain the approval of the Legislature for such a conveyance unless a minimum payment of the tax arrears, interest, penalties, administrative fees, recording fees and/or rent, and all other charges due pursuant to § A40-3 of the Suffolk County Administrative Code, as calculated by the Division, as well as any indebtedness attributable to any former owners and payable to the Suffolk County Department of Social Services, plus a percentage of the appraised value, as determined by the review appraisal prepared by the [Commissioner] Director, is first paid in full by said applicant and at least one of the conditions contained in Subsection [C] B of this section is established to the satisfaction of the Legislature by the applicant. If the applicant is an assignee, mortgagee or judgment creditor of the immediate prior owner of record, then this percentage shall be the difference between the appraised value prepared by the [Commissioner] Director for said real estate and the sum of the following: the consideration paid by the assignee, mortgagee or judgment creditor of the immediate prior owner of record to obtain an interest in said real estate and any indebtedness attributable to any former owner and payable to the Suffolk County Department of Social Services. [In addition, said applicant shall not obtain the approval of the Legislature for such a conveyance unless any and all indebtedness secured by a lien and due the Suffolk County Department of Social Services is paid.]

[G.] E. If the conveyance to an assignee, mortgagee or judgment creditor of the immediate prior owner of record is approved by resolution of this Legislature, then the quitclaim deed effectuating such transfer shall contain a restrictive covenant precluding the grantee from conveying such parcel of real estate to anyone other than a member of the grantee's immediate family, if applicable, for a period of three years from the date of recording of such deed in the office of the Clerk of the County of Suffolk.

[H.] G. Nothing contained herein shall be construed as converting the right of the Legislature to exercise discretionary power pursuant to § 215 of the New York County Law into an

obligation to exercise that power in each instance in which an application is submitted pursuant to § 215 of the New York County Law and this article.

- [I.] H. Any resolution to authorize a conveyance shall require the affirmative vote of at least 2/3 of the entire membership of the County Legislature.
- [J.] I. No resolution authorizing a conveyance to a corporation, [or a] partnership or other business entity shall be approved by the Legislature.
- [K.] J. Consideration for release. All amounts payable by an applicant as provided herein shall be adjusted by the Division, as necessary, through the date of deed conveyance. In addition, [T]the County's interest may be released only after [payment] receipt, as to each parcel to be released, of the following [sums of money]: a certified check, bank check, or money order made payable to the Suffolk County Clerk in payment of the fees required to record the deed and file any other documents necessary to properly record the deed, [together with] and a notarized affidavit signed by the redeeming applicant/owner, stating that the applicant/owner accepts the deed tendered by the County and has no objection to delivery of the deed to the Suffolk County Clerk for recording on the applicant's/owner's behalf by the Division [of Real Property Acquisition and Management].
- K. In the event an applicant makes payment to the County hereunder and no resolution authorizing a conveyance is approved by Legislature, such payment less the administrative expenses authorized under § 29-5 of this chapter, shall be returned to the applicant.

* * * * *

§ 29-5. Administrative expenses.

The [Commissioner] Director is hereby authorized to establish and impose an administrative fee to be collected from applicants to offset administrative expenses for the processing of applications under this chapter , including a fee to offset the cost of the review appraisal required by § 29-3[A](E) of this chapter.

* * * * *

Section 3. Applicability.

This law shall apply to all applications for redemption under Chapter 29 of the Suffolk County Code submitted to the County of Suffolk on or after the effective date of this law.

Section 4. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm,

partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 5. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 6. Effective Date.

This law shall take effect immediately upon filing in the Office of the Secretary of State.

[] Brackets denote deletion of language.
__ Underlining denotes addition of new language.

DATED: September 9, 2014

APPROVED BY:

/s/ Steven Bellone
County Executive of Suffolk County

Date: September 24, 2014

After a public hearing duly held on September 14, 2014
Filed with the Secretary of State on October 23, 2014