



County of Lake as Trustee (COLT) Process and Ordinance Amendments

Lake County Clerk & State's Attorney's Office

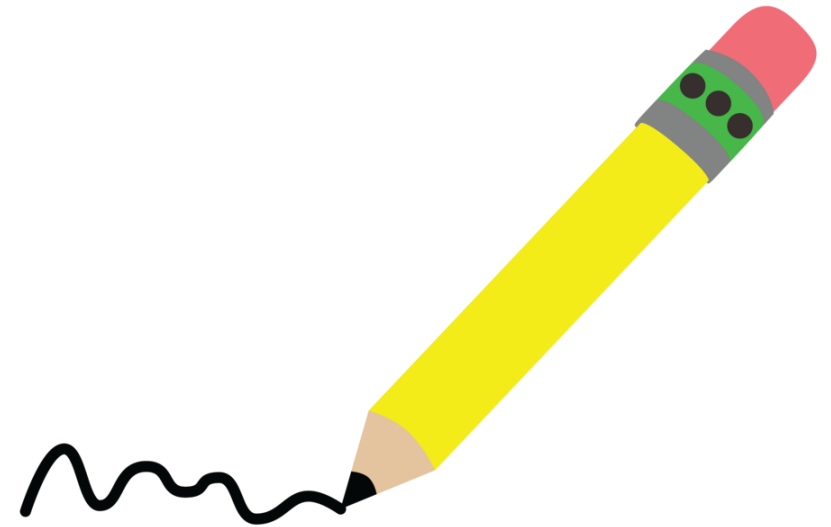
February 25, 2021

Lake County's Mission

Deliver exceptional, financially and environmentally responsive/responsible services that promote a safe, affordable, healthy, and resilient community.

Presentation Overview

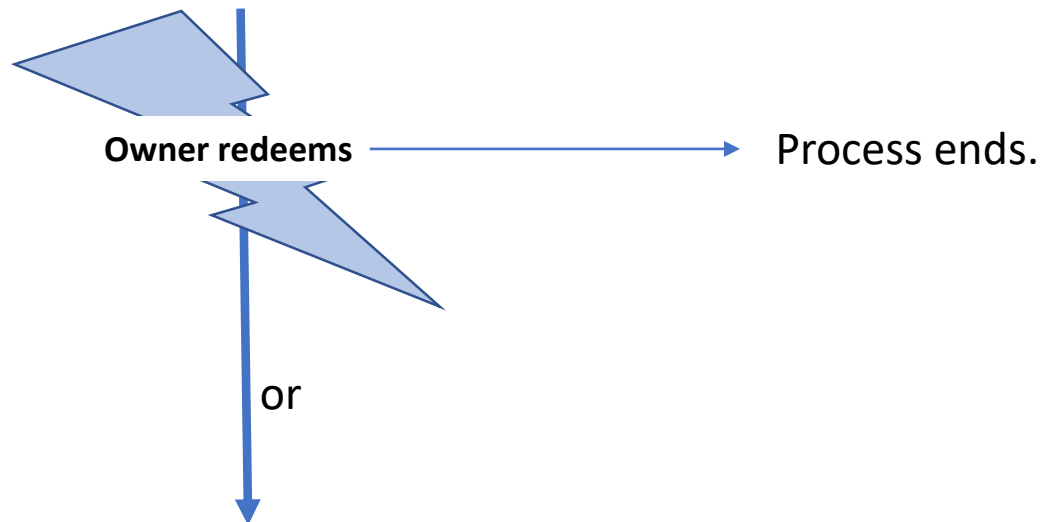
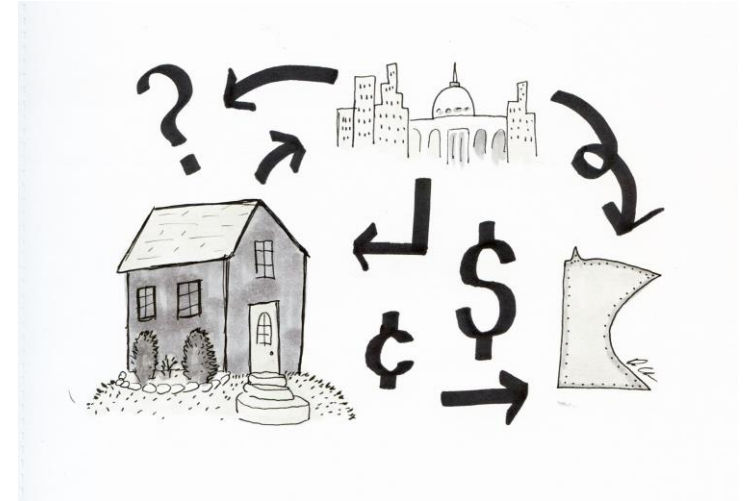
- Background
- Review of Process
- Current Challenges with Ordinance
- Proposed Ordinance Amendments
- Discussion of Policy Decisions
- Next Steps



The start: A property owner doesn't pay taxes.

Remedy: Tax Sale Process (when there **is** a tax buyer)

1. A property with unpaid taxes has the taxes “sold” (meaning the **tax buyer** pays the taxes) at the November tax sale.
2. **Tax buyers** pay the delinquent property taxes and—unless an owner “redeems” the taxes—the tax buyer can receive a tax deed in approx. 3 years.



End of Process: Court authorizes **tax deed** (assuming the statute is followed), wiping out all claims. [I.e., the tax buyer obtains clean title to the property].

Tax Sale Process: When there is **no** private tax buyer

1. A property with unpaid taxes finds **no buyer** at the November tax sale.

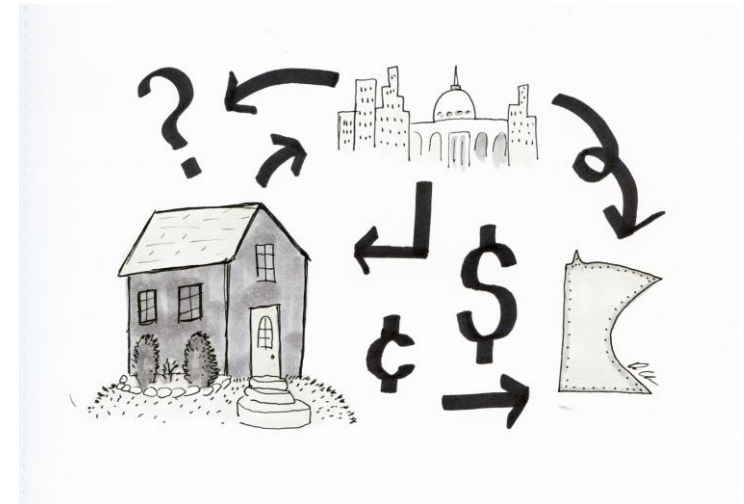


COLT (County of Lake as Trustee) process starts:

2. If **no** tax buyer pays the taxes, then the County (“COLT”) steps in.
3. The **County Clerk** runs the notice-and-redemption process, much like a normal tax buyer.
4. If the property owner doesn’t pay (“redeem”) the taxes, and if no other tax buyer wants the property, then the County applies for a tax deed.



Court authorizes tax deed, wiping out all claims
[County (COLT) obtains the property].



The County obtained the property.

Now what?



“Green Book” Process

5. The County markets the properties for sale (historically, the properties have been listed in a green three-ring binder, and the process is thus referred to as the “Green Book process”).
6. By statute, the County “may sell or assign the property so acquired . . . to any party, including taxing districts.” 35 ILCS 200/21-90.
7. In Lake County, a **1987 ordinance** fleshes out the procedures that the County Clerk follows.



“The legislature granted the county the power to acquire property through no-cash bids especially ‘to clean up a hopeless and difficult tax delinquency situation and place taxable property on the tax rolls again.’ [Cite.] The statute expressly allows the county the flexibility to decide, in its discretion, whether to sell the property, or to assign the property to a private party . . . or to assign the property to a taxing district, or to retain and manage the property.”

Swilley v. County of Cook, 348 Ill. App. 3d 405, 410 (1st Dist. 2004).

1987 "Green Book" Procedures (ordinance).

This is the ordinance
to update.



County of Lake
Waukegan, Illinois

PROCEDURE FOR THE MANAGEMENT AND DISPOSITION
OF REAL ESTATE ACQUIRED BY THE COUNTY OF LAKE,
AS TRUSTEE FOR THE RESPECTIVE TAXING DISTRICTS
INVOLVED, THROUGH THE TAX SALE CERTIFICATE PROGRAM.

Background

The County of Lake, Trustee, has acquired title by Tax Deed to real estate for which property taxes have not been paid. These parcels are to be disposed for the benefit of the taxing districts, and thereby, Lake County taxpayers. The Lake County Clerk, through the Tax Extension Division, administers the Tax Sale Certificate Program.

A primary goal is to get the property acquired by tax deed back on the tax rolls and into the hands of someone who will keep the taxes paid. The following procedures are directed toward this goal.

1. LISTINGS MAINTAINED

Challenges:

1. “Muni A” has dealt with long-running issues with a run-down home, eventually spending \$18,000+ to remedy issues with it (incl. tearing it down).

Muni A has an \$18k lien on the property, **but that lien will be wiped out by a tax deed.** Thus, Muni A would like to acquire the property, but does not have the resources to pay the “minimum bid” amount to do so.

2. “Muni B” is in the process of redressing a derelict property through an abandonment petition, but that petition is on a “race to the courthouse” with a County tax deed proceeding, threatening the muni’s ability to complete its process (and obtain the property).
3. “Muni C,” perhaps in cooperation with a nonprofit housing agency such as Habitat for Humanity, or perhaps as part of developing a Land Bank, seeks to acquire property.
4. “Muni D” has a plan to redress a particular area of its city in which there are parcels going through the County tax deed process, and would like to acquire the parcels in that area.



Proposed updates to the 1987 ordinance:

1. The 1987 ordinance vests the County Clerk with broad discretion, but at a high level of generality, e.g. →
2. Particularly for parcels where a **municipality** or an **affordable housing organization** has a plan to redress distressed properties, the ordinance **could** (and as revised **does**) give the Clerk discretion to transfer properties to such entities at less than the current “minimum bid” amount (i.e., for less than the EAV plus costs, which is the current general rule).

The County of Lake, Trustee, by and through the Lake County Clerk - Tax Extension Department, reserves the right to accept or reject any and all bids at any time and reserves the right to withdraw any parcel from the sale at any time. The County Clerk - Tax Extension, shall have the authority to withdraw a parcel from the sale and direct its conveyance to the previous owner or interested party upon payment in full of all amounts remaining unpaid, if such action is found to be in the best interest of the objectives of this program and in the best interest of the parties for whom the County of Lake, as Trustee, acts. The exercise of such discretion shall be made by the County Clerk - Tax Extension with full consideration of principles governing the rights and responsibilities of the County of Lake, Trustee, as set forth by applicable Illinois law. In considering the exercise of this



Changes in overview:

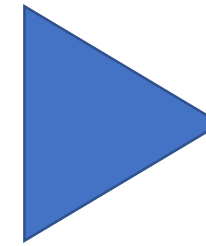
1. The revised ordinance would draw a distinction between:
 - a. private buyers and
 - b. municipalities/affordable housing orgs (“Qualified Entities”) that have incurred costs maintaining, or have a plan to remedy, the distressed property.

	Private Buyer:	Qualified Entity:
This is the existing rule, unchanged	Initial bids for property must meet “min. bid threshold”: EAV + 10% + County’s expenses ----- +	Min. bid requirement would not apply [See next slide for factors.]
This would be new, for the benefit of municipalities.	Pay any muni liens against the property.	Next slide

C. The County Clerk may assign the Certificate or convey a deed to a **Qualified Entity** that submits a bid equal to **or less than the minimum bid**. The County Clerk's discretion to assign or convey for less than the minimum bid set forth in xx.07(B) shall be guided by **the following factors**:

1. Whether the Qualified Entity has incurred costs to maintain the property;
2. Whether the Qualified Entity plans to use the property to create or otherwise foster Affordable Housing;
3. Whether the Qualified Entity plans to use the property on an ongoing basis for a public purpose, including to foster economic development as part of a broader plan that extends beyond the property in question;
4. The likelihood of other bidders, who are not Qualified Entities, seeking to acquire the property, and the amount of the tax revenue that would be forgone annually by conveying the property to a Qualified Entity;
5. The immediacy of the Qualified Entity's plan to put the property into productive or public use.

An Eligible Municipality or another taxing body may claim a credit against the purchase price equal to the value of its Claim in exchange for a release of the Claim. If the release must be recorded to be effective, the Eligible Municipality or other taxing body shall pay the cost for recording the release.



Exception to min. bid requirement for munis / affordable housing orgs.



Factors to guide the County's discretion.

Policy decisions:

1. **Generally**: Whether to expressly carve-out an exception for munis / affordable housing organizations.

2. **More specifically**:
 - a. Should the County condition sales to private buyers on those buyers paying municipal liens? (Such liens could be \$250 for grass cutting or \$18,000 for demolition.)

 - b. For private buyers, should the existing “minimum bid” requirement, which requires such bids for the **first year** a property is listed in the “Green Book,” be lifted sooner than one year, if no initial bids meet the minimum bid requirement?

Questions?