

STATE OF NEW YORK  
\_\_\_\_\_ COURT, \_\_\_\_\_ COUNTY

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In the Matter of the Foreclosure of Tax Liens  
By Proceeding In Rem Pursuant to Article  
Eleven of the Real Property Tax Law by the  
\_\_\_\_\_ of \_\_\_\_\_, New York  
For the Tax Year \_\_\_\_\_

**VERIFIED ANSWER TO PETITION  
AND NOTICE OF FORECLOSURE**

Index No. \_\_\_\_\_

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I, \_\_\_\_\_, as for my Verified Answer to the Petition and Notice of Foreclosure in the above-entitled and numbered action, hereby state as follows:

1. The property that is the subject of this action is located at the following address:

\_\_\_\_\_

2. I have the following ownership interest in the property:  
(CHECK ONLY ONE BOX, and fill in # of owners on the deed if needed)

- Fee Simple 100% (deed is in my name only)
- Tenancy by the Entirety (deed is in my name *and* my spouse's name)
- Joint Tenant with Right of Survivorship (I am one of \_\_\_ co-owners on the deed)
- Tenant in Common (I am one of \_\_\_\_\_ co-owners on the deed)
- Life use only
- Executor or administrator of deceased owner's estate
- Heir or beneficiary of deceased owner's property
- I have a divorce judgment ordering the property to be put into my name
- I hold a lien against the property
- I rent the property as a tenant

3. The property being foreclosed upon is:

- Residential property (1-3 family dwelling used only as a residence)
- Farm property
- Owned by a veteran of the U.S. armed forces who is/was on active duty for 6 months or more in a row (or was killed in action)
- None of the above

4. Respondent raises the following Affirmative Defenses to this action:

**I. PREMATURE FILING**

Under Real Property Tax Law (RPTL) §1102(4), the “lien date” for unpaid taxes is January 1 of the year when the taxes were due (unless local law sets a different date). If the lien date of school taxes is earlier than the lien date of other taxes on the same assessment roll, the later of the two dates is the “lien date” (for school taxes that have not been re-levied).

The RPTL requires 2 years to redeem the property by paying all back taxes, interest, fees and charges in full. Some tax districts provide a 3-year or 4-year redemption period for residential or farm property. Some tax districts also provide a 4-year or 5-year redemption period for veterans of the U.S. armed forces who are/were on active duty for 6 months or more in a row (or were killed in action)

The Petition and Notice of Foreclosure in this case does not meet the requirements of RPTL §1123(1), in that (CHECK ONLY ONE BOX):

- I have a 2-year redemption period, but this action was filed less than 21 months after the “lien date”
- I have a 3-year redemption period, but this action was filed less than 33 months after the “lien date”
- I have a 4-year redemption period, but this action was filed less than 45 months after the “lien date”
- I have a 5-year redemption period, but this action was filed less than 57 months after the “lien date”

**II. PROPERTY IN WRONG CLASS (RPTL §1111)**

My tax district has a 3-year or 4-year redemption period for residential or farm property. I only received a 2-year redemption period. However, I can prove that the property is:

- residential (1-3 family dwelling used only as a residence) OR
- farm property

**III. DEFECTIVE PETITION**

The Petition and Notice of Foreclosure in this case does not meet the requirements of RPTL §1123(4), in that (CHECK ALL THAT APPLY):

- The Petition was not signed *and* dated by the *enforcing tax officer*
- The enforcing tax officer’s signature on the Petition was not notarized

- The Petition was not *also* affirmed under penalty of perjury by the enforcing tax officer

**IV. LACK OF PROPER NOTICE (CHECK ALL THAT APPLY)**

- The “Notice of Foreclosure” was not published in 2 newspapers in general circulation in the tax district for 3 consecutive weeks in a 2-month period. (RPTL §1124)
- I had a right to notice of this proceeding, because I have an interest in the property. However, I was left out of the list of Respondents to be provided with notice. (RPTL §1125(1))
- The Petition and Notice of Foreclosure in this case were not served upon me by first class *and* certified mail. (RPTL §1125(1))
- The Petition and Notice of Foreclosure in this case were not mailed to me *on* or *before* the date the notice appeared for the first time in the newspaper. (RPTL §1125(1))
- I sent a change of address to the tax district, but still did not receive a copy of the Petition and Notice of Foreclosure. (RPTL §1125(1)(d))
- I did not receive a copy of the Petition and Notice of Foreclosure because I moved, but the tax officer did not contact the U.S. Postal Service to obtain my current address. (RPTL §1125(1)(b)(ii))
- The Petition and Notice of Foreclosure was sent to the wrong address. (RPTL §1125(1))
- The Petition and Notice of Foreclosure did not contain the information required by law. (RPTL §1125(2))
- No affidavit of service has been filed in this case, showing that I was properly served. (RPTL §1128)
- Other problem with notice (please describe): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**V. IMPROPER FILING OF DELINQUENT TAX LIST**

The tax district is required to file a list of delinquent taxes for each tax year with the county clerk, no sooner than 1 month after receipt of the return of unpaid taxes (RPTL

§1122). This list must be filed within 10 months after the lien date, or “as soon thereafter as practicable.” (RPTL §1122).

The delinquent tax list has the following errors (CHECK ALL THAT APPLY):

- My property was not included on the delinquent tax list. (RPTL §1122(1))
- The tax map number of my property is not correct. (RPTL §1122(6)(a))
- The name(s) of the owners of this property are not correct.(RPTL §1122(6)(b))
- The list does not include the amount of the tax lien owed. (RPTL §1122(6)(c))
- The list was not signed *and* dated by the *enforcing tax officer*. (RPTL §1122(7))
- The enforcing tax officer’s signature on the list was not notarized. (RPTL §1122(7))
- The list was not *also* affirmed under penalty of perjury by the enforcing tax officer. (RPTL §1122(7))
- The list was not filed with the county clerk within 2 business days of when it was signed. (RPTL §1122(7))
- Other problem with list (please describe): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**VI. AMOUNT OWED IS INCORRECT**

I dispute the amount of back taxes, interest, fees and other charges owed (CHECK ALL THAT APPLY):

- I made payments that were not credited
- I applied for the following tax exemption(s), but was improperly denied:  
\_\_\_\_\_
- The amount of interest or other fees is incorrect
- Under RPTL §1102(1), the amount of foreclosure charges cannot exceed \$150, unless a court decides they are necessary and reasonable

Other reason(s): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I demand a hearing so I can provide proof of the correct amount owed. RPTL §1130 and *Matter of Foreclosure of Tax Liens by County of Ulster*, 121 A.D.3d 111, 990 N.Y.S.2d 337 (3<sup>rd</sup> Dep't 2014)

**VII. INSTALLMENT AGREEMENT**

In the alternative, Respondent requests the opportunity to enter into a repayment agreement for any taxes owed.

**VIII. OTHER DEFENSES:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

WHEREFORE, Respondent respectfully requests that the Petition and Notice of Foreclosure in this action be dismissed, or in the alternative, that Respondent be allowed the opportunity to enter into a repayment agreement for any taxes owed. Respondent demands that if the property is sold, that any proceeds over and above the amounts due and owing to Petitioner be returned to Respondent.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Printed Name:

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

**VERIFICATION**

STATE OF NEW YORK )  
 ) ss:  
COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_, have read the foregoing Verified Answer to the Petition and Notice of Foreclosure and know the contents thereof. The contents are true to my own knowledge except as to matters therein stated to be alleged upon information and belief, and as to those matters I believe them to be true.

\_\_\_\_\_

Sworn to before me this \_\_\_\_ day  
of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

Pro se pleading prepared with the assistance of: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

STATE OF NEW YORK  
\_\_\_\_\_ COURT, \_\_\_\_\_ COUNTY

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**AFFIDAVIT OF SERVICE BY MAIL**

Index No. \_\_\_\_\_

-----x

STATE OF NEW YORK     )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_, hereby depose and state under oath that on \_\_\_\_\_, 20\_\_,

I served a true and correct copy of Respondent's Verified Answer to the Petition and Notice of Foreclosure in this action by first class mail, by enclosing said copy in an envelope, with postage prepaid, and depositing said envelope in an official depository under the exclusive care and custody of the United States Postal Service, addressed to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature  
Printed Name: \_\_\_\_\_

Sworn to before me on this  
\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
NOTARY PUBLIC