

By: CM FONTANA

Re: Ordinance Amendment

Chapter 242: Housing Standards

The Common Council of the City of Buffalo does hereby ordain as follows:

That Chapter 242 of the Code of the City of Buffalo be amended to read as follows:

§242-13. Unpaid Judgments Added to Tax Assessment Rolls.

- A. Any penalty, cost, or fine resulting from a violation of the City's housing standards code or other City or state building codes, entered as a judgment by a court of competent jurisdiction, recorded by Erie County Clerk, and certified as recorded by the Corporation Counsel to the Commissioner of Administration and Finance, may be added to the City's annual tax assessment roll as set forth in Article 28 of the Charter of the City of Buffalo, and included as a tax lien on the property, in addition to, and notwithstanding any and all other remedies available to the City for the collection of such judgments.
- B. The unpaid judgment shall be placed on the annual tax assessment roll no sooner than the fiscal year in which the judgment is certified as recorded. The judgment amount shall be placed on the annual tax assessment roll under the separate heading "uncollected fines and penalties."
- C. The addition of the unpaid judgment to the annual tax assessment roll shall be limited to those judgments which have a value that is equal to or greater than five (5) percent of the City's tax assessed value of the property in the year that the judgment is placed on the tax assessment roll, and that have remained unpaid for at least one year since the date of entry.
- D. Nothing in this section shall apply to owner-occupied residential property, or property that is the primary residence of the homeowner as determined by the City Department of Permits and Inspections.

§242-14. Enforcement and Collection through Foreclosure.

- A. Any uncollected penalties, costs, or fines recorded as a judgment and added to the annual tax assessment roll shall be levied, enforced, and collected in the same manner, by the same proceedings, at the same time, under the same penalties and having the same lien on the property assessed as the general City tax, including the foreclosure on the lien by proceedings in rem pursuant to New York State Real Property Tax Law Article 11.
- B. If, after the foreclosure on the tax lien and partial collection of a judgment occurs pursuant to this section, and a balance for unpaid judgments remains against the former owner based on violation of housing or building code standards, the City may proceed to collect the balance using any other available remedy at law.

§242-15. Notice and Tenant Assistance.

- A. Once a judgment against a property has been placed on the annual tax assessment roll, the City shall notify all owners or known interested parties of record of placement within thirty (30) days by service pursuant to section three hundred and eight of the New York Civil Practice Law and Rules for natural persons, or pursuant to section eleven hundred twenty five of the New York State Real Property Tax Law for non-natural persons. The notice shall include a description of the violation(s), the date of said violation(s), the amount owed, a statement detailing the foreclosure process that will occur if the violations remain unpaid or uncured as provided in §242-16, the process to claim any surplus funds, and contact information for the City's Department of Tax and Assessment.
- B. The City or its designee shall implement a program to provide notice and counseling assistance or other support in relocating tenants, as necessary, residing in property at risk of tax foreclosure due to unpaid judgments under this section.

§242-16. Payment Prior to Redemption; Opportunity to Cure.

- A. If a judgment against a property that has been added to the annual tax assessment roll is satisfied in full prior to the expiration of the period for redemption pursuant to section eleven hundred ten of the New York State Real Property Tax Law, and the property is not otherwise subject to tax foreclosure proceeding for failure to meet other City tax obligations, the property shall be redeemed and removed from the City's action to foreclose.
- B. Owners subject to judgments that have been added to the tax assessment rolls pursuant to §242-12 may make improvements to the property to cure the violation(s) that resulted in the judgment to prevent tax foreclosure. Owners must make such improvements and notify the Department of Permits and Inspections in writing of the same prior to the period for redemption pursuant to section eleven hundred ten of the New York State Property Tax Law. The determination of whether or not the violations have been cured to the satisfaction of the City shall be made by Department of Permits and Inspections. An appeal of this determination may be made to the Zoning Board of Appeals within thirty (30) days of determination.
- C. If an owner has satisfactorily cured the code violation(s), as determined by the Department of Permits and Inspections that resulted in the judgment being placed on the City tax assessment roll, the judgment shall be removed from the tax assessment rolls, and the City shall cease any proceeding to foreclose, provided the owner is current with other tax obligations. If the owner satisfactorily cures such violation but fails to pay the judgment in full, the amount owed pursuant to the judgment shall remain an ordinary lien on the property.

D. Nothing in this section shall preclude an owner from entering into a payment plan with the City for amounts past due for code violations.

§242-17. Surplus Funds.

- A. Any surplus funds that remain after the foreclosure and auction of a property due to unpaid judgments pursuant to this section shall be made available to the former fee owner of such property upon application to the Department of Tax and Assessment in a manner prescribed by the Department.
- B. Any surplus funds that remain after the foreclosure and auction of a property due to unpaid city tax obligations in addition to unpaid judgments pursuant to this section shall be made available to the former fee owner in an amount equal to the surplus funds multiplied by the ratio of unpaid judgments to the total amount of debt owed to the City.
- C. “Surplus funds” for the purpose of this section shall mean the balance of money received after auction of a property at a tax foreclosure less the sum of unpaid tax obligations, unpaid judgments for code violations, and the costs and attorneys’ fees incurred by the City.

APPROVED AS TO FORM ONLY:

**ANNA M. FALICOV
ASST. CORPORATION COUNSEL**

NOTE: Matter underlined is new, matter in brackets is to be deleted.

DATE: XX