

Jennifer Christy

From: Melanie Becker <treasurer@chilmarkma.gov>
Sent: Friday, February 23, 2018 3:44 PM
To: Jim Malkin (jimmalkin@gmail.com); Warren Doty (warrenmdoty@gmail.com)
Cc: billrossimv@gmail.com; Tim R. Carroll (execsec@chilmarkma.gov)
Subject: FW: Meeting House Rd Assoc agreement
Attachments: Vote by Board of Selectmen to Appoint Tax Possession Custodian.docx

Hi Warren and Jim,
Bill asked me to forward you the email below from David Coppola, our tax title attorney.
Now that the town is the owner of the former Macy lot, Bill suggests putting this on the agenda again for the next meeting to move the process forward.
Melanie

From: David Coppola [mailto:David@coppolalaw.us]
Sent: Thursday, February 22, 2018 5:05 PM
To: Melanie Becker; Bill Rossi
Cc: billrossimv@gmail.com
Subject: Re: Meeting House Rd Assoc agreement

Hi Bill:

I am emailing you regarding the next step in preparing the property for a potential sale if and when the Town is ready to sell.

The first step in preparing the property for sale is to obtain a new certificate of title in the Town's name. As we briefly discussed this property is registered land. This means that in order for the Town to convey the property post judgment the Town must first obtain an order for a new certificate of title in the Town's name. In order to acquire a new certificate of title for the property the Town must file a "petition for for new certificate of title" in the Land Court. By filing this petition with the Court, the Town is requesting that the Court issue a certificate of title to the property in the Town's name. Once the new certificate of title is issued in the Town's name, this document gets filed at the registry of deeds. The time frame for obtaining a new certificate of title is a bit unpredictable. If the Court knows that the Town is trying to sell the property and needs the new certificate to do so, then there is a good chance that the process can be expedited. In situations such as this one where a Town is preparing to sell a piece of registered land and a new certificate of title has not been issued, our office has been able to file the petition with the court and have new certificate issued in about a month to two months time. My recommendation is for the Town to file a petition for a new certificate of title for the property as soon as possible. Our office can prepare the petition and file them with the Court as within the next two weeks. **Would you like us to file the petition for the Town?**

The following is an overview of the process of selling Town owned property acquired by foreclosure for unpaid taxes by public auction pursuant to MGL c. 60 s. 77B.

M.G.L. C. 60, s. 77B, allows the Board of Selectmen to appoint a custodian "who shall have the care, custody, management and control of all property heretofore or hereafter acquired by the town" through tax lien foreclosure. The Board must appoint an individual as the Custodian. In most cases the custodian is a Town official that has knowledge of the property, and is usually the Treasurer because of their experience with the foreclosure of the property.

I have attached a proposed vote to appoint a tax possession custodian. The vote should be taken at a regularly scheduled meeting of the Board of Selectmen.

The custodian may employ the services an auctioneer to conduct the auction. Our office has worked with a number of auctioneers and have found that Paul Zekos of the Zekos group is the most thorough and professional. I can also give you names of other auctioneers if you would like.

The custodian should also enlist the services of an attorney to process all legal matters associated with the auction. Over the years we have handled all of the legal work for many municipalities that have sold Town owned property and would be happy to assist the Town of Chilmark if it should choose to sell the property. Typically we pass on the cost of our legal services to the buyer so that there is no expense to the Town.

Once a decision is made on the time, place and date of the auction the statute requires that a notice of the auction be posted in 2 public locations in Town and also sent by certified mail to the former owner/owners of the property. The posting and mailing must take place at least 14 days before auction. The statute does not require that the notice be published. Although not legally required it's always a good idea to send a notice of the auction to abutters of the properties and we will be happy to do that if you wish. The most effective marketing of the property will be handled by an auctioneer if you choose to employ one.

On the date, time and place designated for the auction the property(ies) will be offered for sale to the high bidders. The successful bidder must pay a nonrefundable deposit at the auction and sign a memorandum of sale indicating the terms of the sale. The closing usually takes place 30 days from the auction date. In addition to the sale price the buyer must also pay the deed recording fee of \$125.00, any assessments such as legal and auctioneer fees if applicable and the pro forma real estate tax. The pro forma tax is an amount which would have accrued for that portion of the fiscal year from the closing date to the end of the fiscal year. For instance if your auction takes place on September 1st and the closings take place on October 1st the

buyers will be responsible to pay the pro forma tax for the period of October 1, 2018 through June 30, 2019. The amount due is calculated by multiplying the tax rate in existence with the sale price and then apportioning the amount over the remainder of the fiscal year.

The buyer must also sign additional documents. One indicating that he has not been convicted of the crime of arson and is not delinquent in the payment of real estate taxes to the Town. And another disclosing whether or not he holds any public elected or appointed office. If the property contains a building that is on a septic system the buyer must also sign a document stating that he will upgrade or replace the system within 2 years of the sale.

At the closing the buyer must pay the balance of the sale price and any additional assessments and a deed signed by the Treasurer conveying the property to the buyer is recorded at the registry of deeds. The deed recording completes the process.

Typically Town owned properties are sold as is, without any representations or warranties. It is the sole responsibility of the buyer to know what she or he is buying. If the successful bidder does not complete the sale she or he forfeits the nonrefundable deposit and the Town may offer the property to the second highest bidder.

We will prepare and obtain signatures on all documents, attend the auction, complete the closings and perform all legal matters associated with the auction.

Please let me know if you have any questions.

Dave

David J. Coppola, Esq.
Coppola & Coppola, P.C.
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Marblehead, MA 01945
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Email: david@coppolalaw.us

From: David Coppola
Sent: Thursday, February 22, 2018 1:26:07 PM
To: Melanie Becker

Cc: billrossimv@gmail.com

Subject: Re: Meeting House Rd Assoc agreement

Hi Melanie:

Has Mr. Malkin signed the agreement? If so could you forward me a copy? The MRA is asking about the agreement containing the final signature.

Thanks again for your help.

Dave

Sent from my iPhone

On Feb 21, 2018, at 2:27 PM, Melanie Becker <treasurer@chilmarkma.gov> wrote:

Hi Dave,

Bill Rossi noticed the Agreement was not dated; so I've attached an updated version with yesterday's date.

Melanie

From: Melanie Becker [<mailto:treasurer@chilmarkma.gov>]

Sent: Wednesday, February 21, 2018 1:36 PM

To: David J. Coppola (david@coppolalaw.us)

Cc: billrossimv@gmail.com

Subject: Meeting House Rd Assoc agreement

Hi Dave,

Last night at a regularly scheduled meeting of the board of selectmen, the two selectmen present voted to accept and sign the terms of the Agreement with the Meeting House Road Association.

Our third selectman, Jim Malkin, is expected to come in today to sign the Agreement, although he wasn't able to be present for the vote.

Bill Rossi asked me to forward the attached Agreement to you. After Jim Malkin signs it, I will send you the original for you to arrange for Stuart Cotton to sign on behalf of the MHRA. Will the original then be recorded at the Dukes County Registry of Deeds? Who will arrange for that?

Thanks you your help getting us this far and Bill will be touch regarding the next steps.

Melanie

Please note, my email address has been recently changed. Please update your address book to reflect my new email address: treasurer@chilmarkma.gov

Melanie Becker

Treasurer

Town of Chilmark

401 Middle Road, PO Box 119

Chilmark, MA 02535-0119

The Secretary of State's office has determined that most e-mails to and from municipal offices and officials are public records. Consequently, confidentiality should not be expected.

<Meeting House Rd Assoc Agreement.pdf>

Consider Vote by Board of Selectmen to Appoint [Town Treasurer] as Custodian of Tax Possession Property

As provided under MGL Chapter 60, Section 77B, I _____ hereby move to appoint [Insert Name], [Town Treasurer], as Tax Possession Custodian who shall have the care, custody, management and control of all property acquired by foreclosure, deed in-lieu of foreclosure or by treasurer's deed for unpaid taxes.