

QUEENS SUPREME COURT – CIVIL TERM FORECLOSURE AUCTION RULES

Effective Friday, September 10, 2021, the Queens County Supreme Court – Civil Term will recommence foreclosure auctions on tax liens, common charge liens, and partitions in accordance with these Rules:

In light of the COVID-19 pandemic, in accordance with all safety measures implemented including occupancy limitations, social distancing rules, temperature screening, and appropriate personal protective equipment (PPE), foreclosure auctions will be held as set forth below.

1. Location: Foreclosure auctions will be conducted and supervised by the Referee on the Courthouse steps of the Queens Supreme Court, located at 88-11 Sutphin Boulevard, Jamaica, New York 11435.

2. Day and Time of Sale: Auction sales will be held weekly on Fridays, commencing promptly at 10:00 a.m. To ensure compliance with density limits for the health and safety of Court personnel and the public, the properties will be auctioned in staggered sessions. The sessions will be held at 10:00 a.m., 11:00 a.m., and 12:00 p.m. Initially, there will be no more than four (4) properties auctioned per session in fifteen (15) minute intervals (10:00 a.m., 10:15 a.m., 10:30 a.m., 10:45 a.m., 11:00 a.m., 11:15 a.m., 11:30 a.m., 11:45 a.m., 12:00 p.m., 12:15 p.m., 12:30 p.m., and 12:45 p.m.). The Court will establish and maintain a special “Auction Calendar”. This calendar will contain specific times available for auctions.

In order to maintain all safety protocols, no auction shall be scheduled by the parties unless they have confirmed the availability of a time slot with the Foreclosure Department of this court. The Referees and plaintiffs’ representatives will be directed as follows:

YOU MUST CONTACT THE FORECLOSURE DEPARTMENT AT gscforeclosureauctions@nycourts.gov PRIOR TO SCHEDULING YOUR AUCTION TO CONFIRM THE AVAILABILITY OF THE DATE AND TIME AND TO ENSURE THAT THE CASE IS PLACED ON THE CALENDAR. FAILURE TO ADHERE TO THIS REQUIREMENT WILL RESULT IN THE AUCTION BEING RESCHEDULED AT THE SCHEDULING PARTY’S EXPENSE, INCLUDING PUBLICATION COSTS.

Prior to scheduling an auction, plaintiffs must file an Affirmation

confirming that the case in question has had a COVID-19 Assessment Conference, and whether the defendant has filed a Hardship Declaration. This includes cases where Judgments of Foreclosure and Sale have already been issued (even prior to March 15, 2020).

Pursuant to Administrative Order 232/20, a COVID-19 Assessment Conference need not be held where the foreclosing lender submits an affirmation to the court averring that, following diligent inquiry, it knows the property at issue to be currently abandoned and vacant. A COVID-19 Assessment Conference also need not be held on in-rem foreclosures except where the enforcing officer believes that such a conference would be in the public interest, for example, where the conference is likely to result in a settlement beneficial to all parties.

3. Ensuring Health and Safety at Auction Site:

a. Access to Court Facilities Prior To and Post Auction -

- Temperature Screening and Questions: All visitors will continue to undergo temperature screening and questioning upon entry to the facility in accordance with Chief Administrative Judge Lawrence K. Marks' Memorandum dated June 30, 2020. A uniformed Officer will ask every visitor whether, within the last 14 days, the visitor (1) had a fever, cough, shortness of breath or any flu-like symptoms; (2) has tested positive for COVID-19 and/or been in close contact with anyone who has tested positive for COVID-19 in the last 14 days; or (3) has traveled outside of the U.S. (to any place other than a U.S. state or territory) in the last 10 days (*see* <https://coronavirus.health.ny.gov/covid19-travel-advisory>). Anyone whose temperature is equal to or greater than 100 degrees Fahrenheit or who answers "yes" to any of the questions, will not be permitted entry to the courthouse for any post auction transactions which may require entry into the courthouse. **Additionally, any participants at the auction to whom any of the above questions apply to should refrain from participating in person at the auction.** However, such individuals may retain an agent to appear on their

behalf (the agency designation must be in writing, and properly acknowledged/notarized) and present such authorization to the Referee at the outset of the auction.

b. Face coverings -

- Face coverings are required for all who enter the courthouse and/or participate in the auctions. Those who appear without a face covering will not be permitted entry into the courthouse nor will they be permitted to participate in the foreclosure auction.

4. Closing and Deed Transfer: Following the auction, the successful bidder will deposit at least 10% of the sale price in certified funds made payable to the Referee with the Referee. The balance of the funds, along with the transfer of title documents will occur at such location as determined by the Referee, or at such other place as agreed upon by the parties in writing, within the time limits specified in the Terms of Sale. All participants in the closing must comply with any face covering rule, regulation, or order in effect at the time of closing. Should a bidder fail to comply, the Referee may cancel the closing and hold the bidder in default.

5. Publishing and Posting: A summary of these special COVID-19 policies and procedures shall be included in the public notices published and posted pursuant to RPAPL §231.

6. COVID-19 Auction Policies: Until further notice, every Judgment of Foreclosure of Sale and In Rem Judgment shall contain a decretal paragraph directing the Referee in a mortgage foreclosure action or the Petitioner in an In Rem tax foreclosure proceeding to comply with the Eleventh Judicial District's COVID-19 Policies concerning Public Auctions of foreclosed properties.

7. Status or Settlement Conference: Plaintiff shall file an Affirmation stating that a status or settlement conference was held in the action prior to scheduling the auction and to conducting any procedures in preparation for the auction, in compliance with Administrative Orders 157/20 and 341/20.

8. Every Judgment of Foreclosure and Sale shall include the following language:

“ORDERED, that the Referee shall comply with the Eleventh Judicial District’s COVID-19 Policies concerning Public Auctions of foreclosed properties.

These policies, along with the Queens County Foreclosure Auction Rules, can be found on the Queens Supreme Court - Civil Term website.”

9. Additional General Provisions:

- The Terms of Sale, including any known encumbrances, must be posted outside forty-five (45) minutes prior to the commencement of the Foreclosure Auction.

- The Court Appointed Referee shall conduct and supervise the foreclosure auction. All interested parties including a representative of the plaintiff, authorized to act on behalf of the plaintiff, must be present at the auction. The referee must submit a completed affidavit immediately following the auction (see Referee Affirmation under Forms at Home page of Queens Supreme Court - Civil Term website).

- If a Court Appointed Referee is unable to act pursuant to Part 36 or otherwise unavailable, he or she must promptly petition the Appointing Court for the appointment of a substitute Referee.

- **If a Court Appointed Referee does not appear for a scheduled Foreclosure Auction, the Foreclosure Auction shall be cancelled** and plaintiff’s counsel or the Court Appointed Referee shall contact the Court to obtain the new date and time on which the subject property will be rescheduled for Auction by filing a subsequent Request to File a Notice of Sale. Necessary Referee substitutions must be made prior to scheduling the auction.

- Necessary Bank substitutions must be made prior to scheduling the auction.

- Referees will only accept a certified bank check made payable to the Referee. All bidders must have proof of identification and will be required to stand and state their name at the time the bid is made.

- A successful bidder must have in his/her possession at the time of the bid the full 10% of the sum bid, in certified bank check to be made payable to the Referee.

- A Foreclosure Action Surplus Monies Form (see Surplus Monies Form under Forms at Home page of Queens Supreme Court - Civil Term website) must be completed for ALL Foreclosure Auctions (regardless of the surplus status) by the Referee conducting the sale, plaintiff’s representative, and the purchaser for all auctions, and submitted immediately following the auction. Failure to do so may result in the preclusion of scheduling future auctions.

- Within thirty (30) days after completing the sale and executing the proper conveyance to the purchaser, the Referee conducting the sale shall file with the County Clerk’s Office his/her Report Under Oath of the disposition of the proceeds of the sale, accompanied by the vouchers of the persons to whom payments were made (RPAPL 1355). If the Report of Sale is not filed with the County Clerk’s Office within ninety (90) days of sale, the Referee shall submit, via email to alowe@nycourts.gov, the caption, index number, and date the auction was held, and a detailed reason why the Report of Sale and surplus monies, if any, have not been deposited

with the County Clerk's Office.

- Bidders are cautioned that the failure to pay the full purchase price bid and appropriate closing costs at a closing to be scheduled within thirty (30) days following the auction may result in the forfeiture of the 10% deposit.

- If the successful bidder defaults in concluding the transaction at the purchase price, he/she may be liable for the difference if the property is subsequently sold at auction for a sum which is inadequate to cover all items allowed in the Final Order and Judgment.

- It is the responsibility of the bidder to acquaint himself/herself with the property, any encumbrances thereon, and the Terms of Sale before placing a bid, and to be certain that adequate funds are available to make good the bid. The failure of the successful bidder to complete the transaction under the terms bid may result in the bidder's preclusion from bidding at auction for a period of sixty (60) days.