

**Cuyahoga County Board of Revision
Expedited Delinquent Tax Foreclosure
Hearing Rules & Procedures**

Effective May 23, 2017

The Cuyahoga County Board of Revision (“BOR”) hears *expedited delinquent tax foreclosure* cases for vacant and abandoned real property in lieu of the judicial foreclosure process in the Cuyahoga County Court of Common Pleas. Pursuant to section 323.66 (B) (1) of the Ohio Revised Code (“Revised Code”) rules adopted by the BOR shall be limited to rules relating to hearing procedures, the scheduling and location of proceedings, case management and practice forms. The BOR follows the authority found in Chapter 323 and Titles 53 & 57 of the Revised Code, to carry out the intended function of expedited foreclosures while providing due process to those affected. The notice and service provisions contained in Rules 4 and 5 of the Ohio Rules of Civil Procedure apply to the proceedings of the BOR.

Rule 1 SCHEDULING PROCESS

- 1.1 The prosecutor shall file a motion to have the BOR schedule a final hearing on the matter. Notice of the hearing, including the date, time, and location, shall be provided by the Cuyahoga County Clerk of Courts (“Clerk of Courts”) and/or by publication in a newspaper of general circulation.

Rule 2 MOTIONS AND OTHER PRELIMINARY MATTERS

- 2.1 Unless otherwise provided by law, motions must be filed with the Clerk of Court and the BOR, with notice issued to all parties named in the complaint, not later than **(14) fourteen days prior** to the final hearing. Failure to file a timely motion with the Clerk of Court and the BOR may result in summary denial.
- A. Parties shall have **(7) seven days** to file a response with the Clerk of Court and the BOR, with notice to all named parties.
 - B. The BOR may schedule a special hearing to hear oral arguments on any matter.
 - C. All decisions by the BOR shall be journalized and filed with the Clerk of Court.
- 2.2 The BOR has the discretion to allow documentary evidence to supplement the record at any hearing.
- 2.3 Requests for the BOR to exercise its subpoena authority must be filed with the Clerk of Court and the BOR, with notice issued to all parties named in the complaint, not later than **(15) fifteen days prior** to the final hearing date. The BOR will consider the request and determine whether a subpoena will be issued.

Rule 3. EXPEDITED DELINQUENT TAX FORECLOSURE HEARING

- 3.1 Parties appearing for an expedited delinquent tax foreclosure hearing may testify before the BOR and may be represented by legal counsel.

- 3.2 Expedited delinquent tax foreclosure cases are heard before a panel consisting of three (3) BOR hearing officers, who shall hear all witness testimony under oath or affirmation. All hearings are recorded according to law. A quorum shall consist of two (2) BOR hearing officers, which shall constitute the minimum number of hearing officers required to conduct proceedings.
- 3.3 An Assistant County Prosecutor will represent the Treasurer at the hearing and present evidence. The Treasurer may testify regarding the total impositions, fair market value, and whether there is any Community Development Organization or Municipal interest in the property.

Rule 4. Essential findings

- 4.1 If the BOR determines that a decree of foreclosure is warranted, a final decision shall include the following finds and orders:
- a. The subject property is “delinquent land” pursuant to section 5721.01 and/or “abandoned land” as defined in section 323.65 (a) and as used in sections 323.65 to 323.78 of the Revised Code.
 - b. Taxes and other impositions are due, owing, and delinquent and that the subject property should be foreclosed according to law.
 - c. Whether the aggregate amount of impositions against the subject property exceeds the fair market value of the subject property.
 - d. An order to execute the foreclosure by sheriff’s sale, direct transfer or other appropriate exercise of power upon the entry of an adjudication of delinquency and foreclosure.

Rule 5. IMPOSITION & CHALLENGES

- 5.1 The BOR may rely on the Treasurer’s testimony to determine the amount and validity of impositions against the subject property. The parties have the opportunity to challenge the amount and/or validity of the impositions as provided in the appropriate provisions of sections 323.65 through 323.79 of the Revised Code, including submitting factual documentation demonstrating the measures taken on their part to resolve the outstanding impositions.
- 5.2 The BOR may call additional witnesses and/or consider evidence to determine the amount and/or the validity of any imposition. The BOR has the authority to remove from the tax duplicate impositions it finds are not valid or those not supported by a preponderance of the evidence.

Rule 6. Post judgment powers

- 6.1 The BOR has continuing jurisdiction according to law.
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Disclaimer: the forgoing is subject to change without notice and is for informational purposes only. It is the sole responsibility of the parties to thoroughly review all legal authority concerning the expedited foreclosure process. The information does not constitute legal advice and should not be construed as such.