



Real Estate Committee

CITY OF MOUNT VERNON
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COMMITTEE MEMBERS

Marcus A. Griffith – Chair
City Council President

U. Nkechi Nwachukwu
Secretary

Maureen Walker, CPA
Comptroller

Thomas L. Terry
Commissioner of
Assessment and Taxation

REAL ESTATE COMMITTEE MINUTES

for meeting held on
August 7, 2015

A regular meeting of the Real Estate Committee was held on August 7, 2015 and began at 9:54am.

Present:

Maureen Walker, Comptroller
Marcus A. Griffith, Council President
Thomas Terry, Assessor
Stephanie Vanderpool, Deputy Assessor

Tichina Johnson, Assistant Corporation Counsel
Nkechi Nwachukwu, Legislative Assistant/Secretary

Housekeeping

Deputy City Clerk Lauren Carter introduced Daniel Lawrence and Alisia Laird, two interns from the City Clerk's office who were present to observe the proceedings of the Real Estate Committee.

Minutes

Motion to adopt the minutes of the 4/24/15, 6/12/15 and 6/26/15 Real Estate Committee meetings, with any necessary corrections, was made by the Assessor and seconded by the Council President. The minutes were duly adopted after a vote.

Guests

- a) **Marc S. Oxman, Esq. and Stuart Kahan, Esq.**
Oxman Tulis Kirkpatrick Whyatt & Geiger LLP – Attorneys at Law
Topic: Tax Recovery Program

Attorneys Marc S. Oxman and Stuart Kahan of Oxman Tulis Kirkpatrick Whyatt & Geiger LLP gave an overview of their firm's Tax Recovery Program to see if the City would be interested in retaining their services. Mr. Oxman reported that they currently conduct the program in the City of Yonkers (working with the Yonkers Corporation Counsel) and have recovered more than \$5 million in the past two years. After a detailed review, it appeared the program was very similar to Mount Vernon's current *in rem* procedure. The distinction appeared to be that the firm's Tax Recovery Program is partially *in rem* and partially foreclosure proceedings. Yonkers keeps *in rems* in house and outsources its foreclosures. According to Oxman Tulis, in a foreclosure the City never takes ownership; the property is transferred directly from the delinquent Owner to the new buyer at an auction conducted by the firm; this reduces the City's liability in terms of tenants and other issues owner's are responsible for. Oxman Tulis also stated that in Yonkers, many of the delinquent owners are actually deceased individuals or defunct corporations.

The Council President asked what happens to properties that do not sell at the foreclosure auction. Mr. Oxman replied that such properties would be re-noticed for sale (to be held approximately 4 weeks later) and the City could reduce the upset prices until they sell. Nevertheless, the parcels remain the property of the delinquent owners, not the City, until sold. Mr. Oxman also noted that sometimes "bundling" unsold properties can increase their commercial value.

The Comptroller noted that unlike Yonkers, in 90% of the *in rem* proceedings in Mount Vernon, the delinquent owners are not defunct corporations or deceased individuals, but people who have fallen on hard times. One aspect of the *in rem* process is that it provides a 2-year redemption period where owners can enter into an agreement to make scheduled payments over time to pay off arrears.

Lee Wiederkehr, Esq.

ADOPTED DN 12/29/15

DelBello Donnellan Weingarten Wise & Wiederkehr, LLP
(Attorney for Oneness Rehoboth Church)
Topic: **111 E. 3rd Street** – Block 3158, Lot 16

Attorney Lee Wiederkehr appeared before the Committee to discuss how they believe Oneness Rehoboth Church was the victim of fraud as the purchaser of 111 E. 3rd Street. Mr. Wiederkehr gave the following timeline:

- | | | |
|-------------------|---|--|
| Prior to 11/16/12 | – | Church entered into Contract to purchase the property from delinquent Owner for \$725,000 |
| 11/16/12 | – | The City obtained the deed to the property via a tax lien foreclosure judgment |
| 10/17/13 | – | Closing occurred. Church acquired deed to the Property. Seller/delinquent owner signed an affidavit stating that all real estate taxes had been paid. Mr. Wiederkehr stated that the title report did not show any open taxes because the property had been taken off the tax roll as part of the <i>in rem</i> process. He also stated that 1 ½ weeks prior to closing, the Seller prepared a Motion to Vacate Judgment. Such action, according to Wiederkehr, is evidence that Seller acknowledged that taxes were owed, yet Seller kept quiet about it at closing. At issue is whether Seller's attorney ever received notice of the <i>in rem</i> proceeding. The Motion to Vacate was not opposed by the City. Awaiting court's decision. |

According to Wiederkehr, the taxes due to date are approximately \$311,000, based on figures given to them by the Comptroller during their initial meeting. The Church proposes to resolve this matter by paying \$400,000 to the City from funds that are readily available. The Church's position is that it is a victim of fraud and this proposal would end litigation that will likely take years to resolve.

c) Charles Hinds, Real Estate Broker

The Committee recognized Mr. Hinds and asked if he had any business before the Committee. He said he was present simply to observe.

Properties Discussed

The Law Department distributed the updated "Mount Vernon Property Closing Status Monthly" (dated 8/7/15) and discussed each property in turn.

Matters Arising

Council President Griffith commented on the need for more active marketing of City-owned properties. He suggested that perhaps the City could engage a realtor to take photos of the properties and create a binder (or other format) that people can look through and get stats on the properties.

Executive Session

Motion to go into executive session to discuss the litigation involving 111 E. 3rd Street (Oneness Rehoboth Church) was made by the Assessor and seconded by the Council President. The Committee duly voted and went into executive session. After discussion, motion to come out of executive session was made by the Council President and seconded by the Assessor. The Committee duly voted and exited from executive session.

Documents/Materials Submitted

The following documents were submitted to the Real Estate Committee Secretary during the 8/7/15 Committee meeting:

- 1) Letter dated 7/22/15 from Riverside Abstract, LLC re: 145 S. Fulton Ave, Mount Vernon, NY (submitted by the Law Department)
- 2) Letter dated 8/7/15 from ArtLives re: 142 E. 3rd Street, Mount Vernon, NY and 55 W. 5th Street, Mount Vernon, NY (submitted by the Law Department)
- 3) 17-page petition from Members of the Congregation of Oneness Rehoboth Apostolic Church re: 111 E. 3rd Street, Mount Vernon, NY (submitted by Lee Wiederkehr, Esq.—attorney for Oneness Rehoboth Church)

Adjournment

Motion to adjourn was made by the Assessor and seconded by the Council President.

The motion was duly carried and the meeting adjourned at 11:34am.

Respectfully submitted,



U. Nkechi Nwachukwu
Secretary