

REBA Title Standard No. 4

Tax Titles

A title dependent on a tax collector's deed or a tax taking instrument is not on that account defective if:

(1) a proper person was assessed,

and

(2) the description is sufficient to convey title,

and

(3) (a) the Land Court has entered a decree of foreclosure (M.G.L. c. 60, § 69) or a decree establishing title (§ 80B), notice of which has been recorded, and

(i) after April 11, 2002, if the decree sets forth that the foreclosure was for an unoccupied or abandoned building as set forth in §§1 and 81B or there has been recorded a certificate pursuant to §81B that the redemption amount, as determined pursuant to §62, exceeds the assessed value of the parcel and ninety (90) days have elapsed after the entry of the decree without any petition to vacate the decree being filed, provided that record title to the property does not stand in the name of a deceased person or a person under guardianship; or

(ii) one year has elapsed after the entry of the decree without any petition to vacate the decree being filed;

or

(b) a period of more than 20 years has elapsed after the date of recording of a treasurer's deed conveying or purporting to convey land under M.G.L. c. 60, § 79 or M.G.L. c. 60, §80, unless within such period a proceeding is commenced alleging a failure of compliance with any requirement of law relating thereto, and notice thereof is recorded in the registry of deeds where the land is situated.

A proper person was assessed if such person had, on the assessment day, an interest of record which warranted assessing the tax to such person under the statute then applicable.

Even before the expiration of the applicable period after the entry of the decree, a tax title satisfying the foregoing requirements is not defective, provided either:

(a) the notice issued by the Court was published in accordance with the order of the Court;

or

(b) all persons with an interest of record who failed to appear or waive notice received a copy of the notice.

A postal return receipt card signed by one who purports to be the interested person or the agent of such person may be taken as proof of receipt by the addressee.

Comment

Tax titles not conforming to the foregoing may still be good upon further examination, e.g. a low value tax taking that complies with M.G.L. c. 60, § 79. See Guaranty Mortgage Corp. v. Burlington, 385 Mass. 411 (1982). See also Chapter 283 of the Acts of 1986 (M.G.L. c. 60, § 80C).

A title dependent on a final decree of the Land Court foreclosing the equity of redemption or a decree establishing title under M.G.L. c.60, §80B in a case where the assessment was to persons unknown under the third paragraph added to M.G.L. c. 59, § 11 by St.. 1971, Chapter 286 is not on that account defective. See Hardy v. Jaeckle, 371 Mass. 573 (1976).

Adopted November 15, 1971

Adopted November 27, 1972 (Caveat added)

Adopted November 17, 1986 (3(b) added and Comment expanded)

Revised May,2004 (3 updated and Caveat modified to Comment to recognize validity of tax title foreclosures based on owners unknown assessments in appropriate cases)

Adopted May 9, 2005(3 updated and Caveat modified to recognize validity of tax title foreclosures based on owners unknown assessments in appropriate cases)