

H.B. 294 Practice Forms and Commentary
for use by County Boards of Revision
[Cuyahoga County Forms]

2011

INDEX

I. Introduction..... 3

II. Frequently Asked Questions..... 4

III. Guide to Cooperation Among Agencies..... 8

IV. Coordinator Job Description..... 17

VI. Index to Forms, Forms and Note Tags..... 20

I.

Introduction

This practice guide does not purport to address every conceivable issue that can come up in tax foreclosure proceedings. However, the forms and comments herein attempt to chronologically track the proceedings that will naturally take place along the way.

H.B. 294 is not a solution to the problem of vacant and abandoned lots in neighborhoods. Rather, it is a tool to more expeditiously foreclose on those abandoned lands that are tax delinquent.

Inevitably, this practice guide will not cover every possible matter that may come up at a Board of Revision hearing, nor every matter involving individual agencies (i.e., Clerk, Prosecutor, Treasurer, Sheriff) in the handling or the functionality of the foreclosure from start to finish. However, the assumption is that these agencies will cooperate with each other and apply common sense in such situations. If the participants in the process become familiar with and use these forms (or appropriately adapt them), the process over time should become simple. To this end, the H.B. 294 was crafted to mirror existing practice in the judiciary. In this sense, this is an “overlay” statute that very much resembles a typical judicial proceeding in terms of nomenclature, orders, etc. However, the main differences are in the areas of procedure (the Civil Rules do not apply), the change in case forum (from a court to the Board of Revision) and the speedier disposition of cases once deemed foreclosed.

II.

Frequently Asked Questions About H.B. 294

Question 1. To which Counties will this proposal apply?

ANSWER: The proposed legislation will apply to all counties wishing to utilize such a vehicle.

Question 2. What if a county does not wish to participate?

ANSWER: The legislation would be elective, allowing the County Boards of Revision to enact resolutions invoking the remedies in H.B. 294.

Question 3. To which properties will Board of Revision hearings apply?

ANSWER: Only to properties specifically defined as “Abandoned Properties” consisting of properties that are: 1.) unoccupied, vacant, or abandoned (according to criteria established in the legislation) and; 2.) tax delinquent.

Question 4. Who has standing to utilize this procedure?

ANSWER: County Treasurers and Tax Lien Certificate Holders (in counties that sell tax lien certificates).

Question 5. What constitutes Abandoned Properties and how will that be shown?

ANSWER: The statute defines Abandoned Properties as those that have been delinquent, and are “unoccupied.” The statute prescribes rebuttable presumptions that a property is unoccupied if it is so certified by a political subdivision under its building and housing authority, or likewise boarded up, not being served with utility service, visible observation, etc.

Question 6. How will the cases be filed?

ANSWER: The cases will follow virtually the identical process at the front end. The County Treasurer will supply to the Prosecutor the Auditor’s certification that the particular property is tax delinquent, and is claimed or determined to be Abandoned Property as defined in the statute. The County Prosecutor will commission the title work and file the action with the Clerk of Courts and is currently done.

Question 7. Is the Board of Revision equipped to handle the processing of these cases? How will the cases be processed?

ANSWER: The wheel should not be reinvented. The Clerk of Courts of each County receives the filing of all civil cases. Once filed, the Clerk under the current practice refers each case to a judge by

lottery (in those counties having multiple judges). Under H.B. 294 practice, instead of assigning a case to a judge, the Clerk will simply assign the case to the Board of Revision.

Question 8. What about due process and all the notice requirements?

ANSWER: All of the same notice requirements currently existing in the foreclosure statutes, and the procedures utilized by the Clerks of Court to implement such notice (i.e., notice and summons, certified return receipt to all parties in interest under Civil Rule 4, costs, docket maintenance, etc) will continue to be handled by the Clerk of Courts just as if the case was in the judiciary, except that the cases will be in a different forum, i.e. the Board of Revision. The only differences will be that, once service of process is confirmed, the timing of various procedures such as notices, answers, statutory time periods for adjudicating the case will be shortened.

Question 9. If the proceedings in the Board of Revision resemble the proceedings in the Courts, why change?

ANSWER: These cases apply only to a select group of cases. They apply only to derelict, tax delinquent, blight-ridden properties. They typically involve properties where the tax delinquency, costs, penalties and interest (“Impositions”) exceed the fair market value of the delinquent property. Hence, the statute would primarily allow the delinquent owner one defense in the Board of Revision which is “payment.” If “payment” cannot be proven, the matter will proceed to an adjudication of foreclosure. Additionally, the Board of Revision for these cases will have responsibility ONLY for tax foreclosures of Abandoned Properties thereby making the proceeding both a priority, and the exclusive docket of the particular Board of Revision. The County Treasurers will also be afforded the opportunity to enter into arrangements with local non-profit groups, or cities to defray the enforcement costs, or divert D-TAC or other resources to the effort. Unlike the judiciary which must proceed under the Ohio Rules of Civil Procedure, the Board of Revision’s time lines are set by the statute and are significantly shorter.

Question 10. Do typical Board of Revision Members have the expertise to handle such matters?

ANSWER: These cases, by design, will not involve factual or legally intensive or complex inquiries. A pre-prescribed “Certificate of Readiness” form would be adopted by each board to make the process as mechanical as possible. Moreover once the forms are learned and used, the proceedings should be quite simple. For larger counties where the abbreviated procedure is to be utilized, a separate board specifically dedicated to these cases may be established. In smaller counties, the existing boards and members can handle the periodic cases. If there is concern about qualifications, the appointee-members on these specific boards can be attorneys, title company representatives or individuals possessing expertise and knowledge in the area of real property, liens, foreclosures and/or enforcement. Ultimately, if a particular BOR perceives that this tool is not appropriate, then the procedure need not be utilized in that County.

Question 11. What if there are one or more lienholders (such as a bank, junior lienholder or other creditor) holding liens on the property.

ANSWER: Any such lienholder of record will of course receive notice and summons of the proceeding exactly as is done under current Civil Rule 4 practice. If the lienholder can show through an evidentiary hearing in the Board of Revision that the taxes, penalties, costs and interest (the “Impositions”) are not more than the fair market value of the land as shown on the Auditor’s appraisal, then the property may be prosecuted in the Board of Revision like other foreclosures. If the Impositions exceed the fair market value, then, as a matter of law, the lienholder has no “interest to protect,” and the matter can proceed to foreclosure.

Question 12. Where does the case go from there?

ANSWER: Once the Board of Revision makes an adjudication of foreclosure, it will do so by resolution of the Board directing the Sheriff to sell or convey the Abandoned Property This will be filed with the Clerk on its journal, and the matter will be referred to the Sheriff for a Sheriff’s sale or conveyance. From that point forward, the Sheriff will pursue a sale as with any other foreclosed property. Any sale will likewise be subject to confirmation by the Board of Revision just as a Court would confirm.

Question 13. Does the owner or lien holder have any appeal rights?

ANSWER: As with any administrative adjudication, whether a zoning board, city or state department board, the right to appeal de novo under Revised Code Sections 2505 and 2506 is preserved.

Question 14. When is the sale final? What are the redemption rights and when is a sale deemed confirmed?

ANSWER: After a property is sold at Sheriff’s sale, and the Board of Revision confirms the same by Board resolution, the sale becomes final and deemed confirmed when journalized and docketed with the Clerk of Court. In the case of direct transfers to municipalities or community development organizations, confirmation occurs when the Board of Revision files the Order to transfer the property directly.

Question 15. What if a tax payer or interested party pays the taxes or enters into a payment plan during the pendency of the case?

ANSWER: Where payment occurs, the case will be dismissed the same as if the case was in the judiciary.

Question 16. What are the bid requirements for the Abandoned Property?

ANSWER: Under the current law, the sale price is the Impositions.

Question 17. What if no one bids on the property?

ANSWER: Upon notice of an interested municipality as defined in the legislation, the property may be conveyed in fee simple by Sheriff’s deed to such municipality, county land reutilization corporation or community development organization for the Imposition costs or other consideration agreed to between the

Treasurer and the property recipient without the need for a second sale as with current “Land bank” practice under R.C. 5722.01 et seq.

Question 18. What qualifies a community development organization to receive Abandoned Properties and what protections are envisioned to guard against “fly-by-night” community development organizations?

ANSWER: These community development organizations must have been in existence for a specified period of time, and in good standing at the time of the conveyance. More importantly, they must have the authorization from the local municipality or political subdivision to be the recipient of the Abandoned Land, pursuant to a plan of rehabilitation or other intent to eliminate the nuisance character of the lands. Treasurers and Boards of Revision would not determine which community development group should get the land. The commitment to end the abandonment would be assumed by virtue of the fact that the municipality has approved the community development group-transferee’s plan of rehabilitation.

Question 19. Who will select the appointees to the Board of Revision?

ANSWER: Board appointees will be selected in the same fashion as is currently practiced. By law, the appointees are selected by the County Commissioners, Treasurer and Auditor.

Question 20: What happens if a property owner timely appeals a decision?

ANSWER: It will be no different than the appellate process had the case been prosecuted in the Court of Common Pleas, except that it will be an administrative appeal de novo from the Board of Revision to the Court of Common Pleas pursuant to R. C. 2505 and 2506.

III.

Guide for Cooperation Between Agencies

I. Introduction

The practice forms included with this Guide deal with practical aspects and forms for the Board of Revision (“BOR”) proceedings themselves, i.e., notice of hearings, petitions, continuances, adjudication orders, intake forms, etc. However, there are several areas of cooperation between BOR, Treasurer, Prosecutor, Clerk and Sheriff that require common sense cooperation and adjustment which have nothing to do with the law itself or the proceedings thereunder. For example, where the hearings will occur, will the Clerk send out complete hearing notice forms from the Board or simply utilize the postcard notice currently in practice with judicial notices of hearings, who will pick up and deliver files from the Clerk, etc. All these have nothing to do with the law and proceedings themselves, but everything to do with inter-agency cooperation. The intent here is to point out as many areas of cooperation that are needed so as to give counties a bigger picture of the practical “set-up” requirement needed to implement H.B. 294. This is not meant to discourage utilization of the H.B. 294, but rather, to point out that once the non-statutory logistics are discussed and addressed, the proceedings should become very simple, efficient and beneficial to communities that require more efficient foreclosure of vacant and abandoned lands.

II. Cooperation: The Prosecutor

A. General:

The Prosecutor’s role is essential. The Prosecutor will still be charged with representing the Treasurer. The Prosecutor should separately peruse the practice forms and be comfortable with the forms that will be used in the particular county. Some practice forms a Prosecutor may chooses to accept, modify, or ignore altogether in favor of pre-established judicial forms (of course, with new captions). And, of course, the forms can and should evolve in reaction to practical experience, custom or office procedure.

B. Notice and Filing

Some prosecutors file cases seeking certified Civil Rule 4 service; followed later by a request for ordinary mail service; and, if needed, followed later by a request for publication. Some prosecutors do it all at once, that is, they request certified Civil Rule service, but simultaneously, alternatively, ask for ordinary mail service and service by publication in the event of unclaimed service or service that is non-deliverable/unknown addressee, etc. The Prosecutor, Clerk and the BOR Coordinator should talk about these things and be on the same page. Whatever current procedure is in use for judicial foreclosures can be maintained for the most part (except when it comes to publication cases to be discussed later)

C. **Prosecutor's Existing Docket.**

The BOR should respect the Prosecutor's existing docket. In other words, it would be inadvisable and promote contention if the BOR scheduled cases randomly. It is best for the BOR administrator to find out which days of the month are best for the BOR members and the Prosecutor, and schedule cases on these set date(s). Moreover, the BOR should not necessarily schedule cases just because service of process has been perfected. Much more preparation is required for each file (final judicial reports, military affidavits, land bank requests, etc.) Rather, once the Prosecutor feels a case is "ready," the Prosecutor can ask that a hearing date be set by the BOR, either by filing such a notice with the Clerk or informally through pre-established channels (emails, inter-office memos). In this way, cases are set and heard with a completed file. Incomplete files require continuances and, ultimately result in delay of the case disposition.

III. **Cooperation: The Treasurer.**

A. **Selection of Cases**

Obviously, the black letter of the law permits the Treasurer to refer any "abandoned lands" for foreclosure utilizing H.B. 294 practice. However, it is equally obvious that properties selected for foreclosure should be selected in conjunction with municipalities, townships or counties ("MTC's"). That is to say, it is somewhat counterproductive to foreclose on an abandoned parcel when it is clear that there is no MTC at the back end to receive the property into its land bank. This is one of the primary points of H.B. 29--getting abandoned lands into the hands of MTC's or community development groups in order to maintain the property and make the property productive. If there is no interested MTC, and no bidder bids on a parcel (particularly in the case of abandoned structures), the property then is forfeited to the state for a future Auditor's sale which will leave the property, in most cases, still abandoned or in the hands of a purchasing speculator at Auditor's sale--an unfavorable situation in either case.

The better practice is to maintain, as best as possible, whatever vacant land list the Auditor currently maintains. In addition to this list, the Treasurer or Auditor should invite periodically all of the MTC's in the County to tender their "wish list" of vacant or abandoned tax delinquent lands. These wish lists are properties that have become eyesores, nuisances or part of a development site requiring land assemblage. These are the cases that would be identified by the Treasurer and targeted to the Prosecutor for H.B. 294 disposition.

Different communities will select lots differently. In many cases, a community development director, councilperson, or mayor will refer cases in a systematic way. Some councilpersons may want to identify the lots themselves or through their trusted community development groups. However identified, the Treasurer should not select these lots for foreclosure unless the request is

communicated by the director, commissioner or person designated by the MTC as having official authority to request and receive the foreclosed parcel.

B. **Tax Lien Certificates**

In those counties where tax lien certificates are sold pursuant to R.C. 5721.30 et seq., the Treasurer should use its best efforts not to include H.B. 294 eligible land in the sale pool--at least not until it can be determined that a MTC has no interest in the parcel. It would be counterproductive to have land-bank eligible properties get stuck in a tax certificate holder's hands. Tax Lien Certificate holders are not land re-utilizers.

C. **Dismissal of Cases.**

If a taxpayer pays off the taxes during the pendency of a case, the BOR should dismiss that case. However, if a foreclosure case is pending, the BOR may not be aware of this. Hence the Treasurer should do its best to notify the Prosecutor and the BOR that, due to a payment, the case should be dismissed. Whatever internal system of notification is used for judicial tax foreclosure cases would, in all likelihood be suitable for BOR tax foreclosure cases. The BOR will then, of course, voluntarily dismiss the case or the Prosecutor may move to have the case dismissed.

IV. **Cooperation: The Clerk**

A. **General.**

Among the various agencies, the Clerk is probably the engine that runs the process. While H.B. 294 defines and sets forth a process for foreclosing abandoned lands, that process only happens because of the work of the Clerks. It is essential to stay in frequent communication with the Clerk in setting up the particular county's BOR process.

B. **Case Filing and Numbering**

1. **Designation Sheet:** Most Clerks identify the nature of a case by a "Designation Sheet." That sheet will need to be slightly modified to include a space to be checked for "Board of Revision: Tax Case" or some similar nomenclature. Most civil cases begin with the year of a case followed by the letter "CV" to indicate that it is a civil as opposed to a criminal or domestic relations proceeding. Hence, a common new "stamp" to be ordered by the Clerk might be as follows: "BOR-11-00001."

2. **Fees.**

In _____ County, by agreement, the Clerk only charges a \$10.00 filing fee for tax foreclosure cases. Make sure that any favorable filing fees are retained in BOR tax foreclosure cases.

C. **Notice of Summons and Complaint**

1. A new notice of summons and complaint must be utilized by the Clerk which conforms to the requirements of H.B. 294. This guide proposes such a form. However, the Clerk and the Prosecutor should have input into this for purposes of conformity with the law as well as layout of the form itself.
2. Confirm that the docket will be maintained the same as with judicial foreclosures so that the BOR staff, Prosecutor and parties can look up docket information in a familiar form. In _____ County, for example, the BOR cases are fully integrated into the Clerk's current docket system so that anyone can look at the docket of pending BOR case in _____ County in the exact same way as any other civil or criminal case.

D. **Notice of Hearings and Decisions.**

Typically, the Clerk mails out post card notices of hearings to the parties just as in judicial proceedings. The BOR staff can also mail a hard copy of the notice of final hearing dates as well as final adjudications. However, this added mailing would be a courtesy to the parties and not otherwise necessary. Such added mailings would result in more costs. In addition, each ruling order or notice of hearing is filed with Clerk the same way as if a Court issued an order of trial or pretrial. The Clerk would docket the "order," journalize it and then send out "post card notice." Some Clerks may request the BOR staff, the Prosecutor or a combination thereof to work with the Clerk to formulate acceptable generic postcard notice language, e.g., "The parties will take notice that a final hearing will take place in this matter on May 1, 2011, at 1:00 p.m. at 1234 Courthouse Street, Room ABC, Netherland, Ohio 44444."

V. **Cooperation: The BOR and BOR Coordinator:**

A. **Scheduling of Cases.** Whether a case is ready to be set for hearing, of course depends initially on whether service of process has been perfected. Both the BOR staff person and the Prosecutor will normally periodically be checking for this. However, just because a batch of cases have been identified in which service of process has been perfected does not necessarily mean that the BOR should immediately set the matter for hearing. The prosecutor still needs to make sure that it is ready to proceed (checking green cards,

preparing proposed judgment entries for the BOR, preparing and filing/sending military affidavits and other pre-hearing requirements that may be required by non-H.B. 294 laws.

B. **Retrieval of Cases.** Ideally, BOR staff will be able to go on-line to the Clerk's web-site to determine if service of process has been perfected. Once service is perfected and the Prosecutor has identified a group of cases ready for hearing, the BOR staff person should retrieve the file for preparation and further processing. The Clerk, Prosecutor and BOR staff should agree on who should pick-up/deliver the files and post filing papers and iron out any other sensible protocol (e.g., signing a file out, signing a file in, etc.)

C. **File Preparation**

1. **Intake.** A case intake sheet may seem redundant if there are many case filings, but it is crucial to maintain the discipline of an intake sheet so that any person on the BOR staff can pick up a file and determine the basics, e.g. parties, status of service, parcel number, whether impositions exceed fair market value, MTC interest, etc.

2. **Green Cards or Docket.** Ideally, it would be best to have a separate form (included with this guide) onto which the green cards can be attached so as to leave as little doubt as possible for BOR members that service of process has been perfected. However, the docket can be used to determine service or process. In _____ County, for example green cards are now imaged and placed on the docket, and even if the green cards occasionally get lost, the docket is the official basis for presuming whether service has been perfected or not.

3. **Preparation of Papers for BOR.** Although the BOR members will be charged with hearing and adjudicating a case, the BOR Coordinator should do as much as possible to make it easy for the BOR members to do their work. To this end, pre-established and approved forms should be developed (as herein provided) and discussed with the BOR and Prosecutor so that proposed orders for continuances, final entries, orders of sales/conveyance, confirmation forms, etc. are filled out as much as possible *before the hearing* so that Board members need only sign these papers as appropriate. Obviously this will not be possible in all cases where aspects of the case are unique or contested. However, in most cases involving "abandoned" lands, the experience in _____ County is that the case will proceed as a default because the defendant(s) typically does not attend the final hearing.

4. **Rules.** H.B. 294 provides the BOR with limited rule-making authority. If the BOR chooses to make rules, they should be made with input from the Treasurer, Prosecutor, Clerk, and Sheriff. Areas of rule making would include methods of securing Civil Rule 4 publication, what to do about cases that go on a payment plan during case pendency, time for hearings, etc.

VI. Cooperation: The Sheriff

- A. **Orders of Sale and Deeds.** H.B. 294 authorizes the BOR to prepare Orders of Sale/Direct Transfer and Deeds. Sheriffs are accustomed to seeing an Order of Sale coming from a Clerk with deeds being prepared by the Sheriff itself. Discuss this with the Sheriff and the Clerk so that agreement can be reached on whether to continue existing practice or allow the BOR to handle these formalities. Clerks will no longer need to prepare orders of sale/direct transfer, nor will the Sheriff need to prepare deeds. These are pre-prepared and the Sheriff need only sign the approved and pre-prepared forms at the appropriate time.
- B. **Confirmations.** Explain to the Sheriff that just as in judicial cases, confirmations will be going back to the BOR in the case of *sales*, but that in cases of *direct transfer*, the confirmation occurs as follows:
- 1.) In the case of direct transfers to a Tax Lien Certificate Holder, upon the journalization of the Order to Sheriff to Transfer to Certificate Holder;
 - 2.) In the case of a direct transfer to a MTC, upon the filing of an Order to Sheriff to Transfer. Once that resolution is journalized, the transfer is confirmed and all redemption rights terminated as against all parties defendants.
- C. **Costs.** Work out any needed protocols for costs. For the most part, all of the Sheriff's work in preparing a cost bill should stay the same. After a sale or just prior to delivering a deed to a MTC, the Prosecutor or Clerk notifies all related agencies (Prosecutor, Treasurer, Clerk, Sheriff) to submit their respective fees and costs, and the same are assessed to the purchaser of the parcel or the MTC taking delivery of the deed.
- D. **Deed Filing.** Under H.B. 294 practice, the Sheriff has the authority to file deeds and to tax the recording fee as added costs. With tax foreclosures, this will rarely be a problem, but it is a problem in private foreclosures. If for some reason it becomes necessary, the Sheriff is authorized to make the filing.
- E. **Actual Deed Preparation and Orders of Sale:** H.B. 294 authorizes Boards of Revision ("BOR") to hear and adjudicate tax foreclosure cases. Other than the difference in the forum, almost all other aspects of a tax foreclosure case are designed to mirror the process and procedures of a judicial foreclosure. The few differences relate mainly to the speed in which the case is heard and the procedures after the case is adjudicated. H.B. 294 authorizes the BOR to prepare Orders of Sales/Direct Transfer and Deed forms for signature by the Sheriff. Because the Deed form is prepared and approved up-front by the BOR, there is no need, in select cases, for the Sheriff to prepare deeds; rather, in these select cases, the Sheriff need only sign the pre-approved deeds

ordered by the BOR. Although the Sheriff may wish to continue preparing deeds in the majority of private and tax foreclosure cases, this work load will be lessened in the cases described below.

Types of Orders of Sale

1. **Order of Sale to Sheriff**. This is a typical Order of Sale in which no city, county or township has expressed an interest in acquiring the particular property into its land-bank. The BOR prepares the Order of Sale (as opposed to the Clerk), and the Clerk merely will deliver the Order of Sale to Sheriff for the next upcoming sale;

DEED PREPARATION: In these cases, the Sheriff can prepare the deed as it normally does. Alternatively, as in _____ County, the deed is pre-prepared for the Sheriff as described in (2) below. However, because the ultimate purchaser or recipient is unknown until the conclusion of the sale, the Sheriff need only fill in the transferee's exact name, the consideration paid and the tax mailing address.

2. **Order Of Sale To Sheriff With Alternate Instruction**: This is an Order of Sale where a city, county or township *has* expressed an interest in acquiring the property, but a Sheriff's Sale must nevertheless still first occur. In situations where the BOR finds that the fair market value of the property (as defined by the Auditor) exceeds all of the tax impositions, costs, penalties and interest ("Impositions"), then the Property must go to sale (unless the Alternative Right of Redemption applies-R.C. 323.78 in which case valuation has no relevancy); except that if no one bids on the property, then no *second* sale is required (as with the land bank statute). Instead, the city is *deemed* to have been the best bidder on the property and the Sheriff is ordered to deliver a deed directly to the City named in the Order of Sale with Alternate Instruction (the Alternate Instruction being to transfer the property to a MTC due to the lack of a bidder).

DEED PREPARATION: In these cases, the BOR will attach an "Exhibit" to the Adjudication order consisting of the deed to be used: a.) for any prospective Buyer at sale or, b.) the transferee City (in the event of no bidder). In the case of a sale, the Sheriff will still use the deed form supplied by the BOR but fill in the blanks as indicated above. The Sheriff need only fill in the blanks regarding the name of the Buyer, the consideration paid and the tax mailing address. Once again, the BOR will have attached to the deed the pre-approved legal description from the preliminary judicial report thereby eliminating the need for the Sheriff to do this task.

3. **Order to Sheriff to Transfer to Municipality or Land Reutilization Corporation ("LRC")**. This is a situation where a MTC *has* expressed its interest in acquiring the parcel. However, in situations where the BOR finds that the Impositions exceed the fair market value of the property (as defined by the Auditor), or where the Alternative Right of Redemption Applies, then, as a matter of law, *no sale* is required. Rather, the Sheriff is simply ordered to sign and deliver a deed to the municipality named in the Order.

DEED PREPARATION: In these cases, the BOR will attach an “Exhibit” to the Adjudication order consisting of the deed to be used for delivery to the MTC. This deed will already have the name of the MTC filled out and completed requiring the Sheriff merely to sign and notarize the deed. Once again, the BOR will have attached the pre-approved legal description eliminating the need for the Sheriff to do this task.

VII. **County Commissioners, Treasurer, Auditor.**

H.B. 294 is invoked by resolution of the BOR. In this regard, the Treasurer, the Commissioners and the Auditor must agree that it is a good idea to utilize this tool. Discussion should occur which identifies the scope in which the BOR chooses to utilize the bill. For example, one county may want to limit the bill only to vacant land while another may want to include structures. Nuances should be discussed which will fit with practical needs and practical resources such as how many “Boards” does the county utilize, the legal or real estate experience of individual BOR members, staff availability, facilities for hearings, etc.

VIII. **Cooperation: Community Development Organizations and Municipalities**

A. **Municipalities.** The selection of abandoned lands for foreclosure necessarily must involve the municipalities that will take the abandoned lands into their land banks. Thus, cities which have a large inventory of abandoned land must be proactive in identifying the lands they seek to acquire, and communicating this interest to the Treasurer. Municipalities will have varying methods of identifying abandoned lands. Either local mayors, councilpersons, community/economic development personnel will be charged with this task. Identifying and prioritizing such abandoned lands will, in turn, be the result of constituent and neighborhood input via community development or neighborhood groups. Hence, municipalities and Community Development Groups should work hand-in-hand to promote efficiency and avoid duplication of efforts.

B. **Community Development Organizations.** Community Development Groups (“CDG”) are often at the forefront of gathering the information about problem vacant homes and lots. They typically feed this information to local elected officials or city administration officials. Therefore, CDG’s should routinely be consulted about prioritizing neighborhood nuisance properties. Likewise, CDG’s must exercise caution to assure that municipalities will be available to receive a particular property and that the proper channels are utilized to identify and prioritize nuisance properties for H.B. 294 disposition. For example, some municipalities may require that all lands be identified by an administration official; others may have a ward-based system in which everything may have to pass through the councilperson. Others may have a ward-based system in which a councilperson has delegated the identification and prioritization process to a trusted CDG. The point is that H.B. 294 implementation will have best results when CDG’s and municipalities stay in close contact with each other and the Treasurer.

IX. **A Final Note:**

A. **General:** The foregoing outline may seem ominous in terms of the preliminary logistics. Assuming goodwill and cooperation among agencies, the foregoing leg work is not that onerous. Preliminarily, it may require a point person dedicated to doing such leg-work, but once established, should result in a fairly seamless and inexpensive process. Conversely, if a particular agency is vehemently opposed to H.B. 294 practice or there is political infighting which discourages cooperation, then, an otherwise useful and easy tool will be rendered impossible to be administered

B. **Staffing**

1. **BOR Members:** In counties where there are thousands of backlogged cases and high population, there are several “boards of revision” If there are thousands of cases, it will no doubt require the Treasurer, Commissioners and the Auditor *each* to either dedicate one separate person to sit on the board (in addition to existing appointees), or hiring part time members to serve. In some counties, existing employees are selected to sit on the “foreclosure BOR” In this respect, it does not involve a large budgetary expense because, for example, one hearing per week at one hour per week is only four hours. The Coordinator would be the primary full time staff person who is essential to preparing the cases for the board. In smaller counties with smaller or little backlog, the expedited process afforded by H.B. 294 can also be handled by existing staff. In certain counties a separate Board will convene for a few hours perhaps 2-4 times monthly to adjudicate cases.

2. **Clerical/Administrator:** Unless an existing and competent BOR coordinator or staff person is available to prepare the cases and monitor service of process, a separate person should be hired part-time to handle this task. A dedicated coordinator is essential, and hence this requires budgeting for such person. Except in unusual circumstances, individual Board members should not be required to perform the clerical and case preparations of the Coordinator. Rather, the staff person or coordinator (ideally a part-time lawyer) should supervise making the case files ready for hearing and attending the hearings as the Board’s staff for the purpose of: a.) testifying at the hearing to confirm service of process, readiness for hearing, file completeness, and; b.) preparation of papers and forms for BOR signature after a case is heard.

IX. **Conclusion.**

This guide to cooperation is intended to be a constant work-in-progress. As proceedings and experience increases in the usage of H.B. 294, this guide will hopefully be updated to try to incorporate best uses and practices.

V. Job Description: BOR Foreclosure Coordinator

The ideal candidate would either be a lawyer or a non-lawyer with foreclosure experience as a paralegal, or staff within the Treasurer's office that understands tax collections. The candidate must be able to administer foreclosure cases from their inception to their ultimate conclusion and proper disposition. Once a case is filed, the Coordinator's job begins with monitoring the Clerk's docket of all cases filed for the purpose of determining service of process and getting cases "ready" for adjudication.

The job duties of the Coordinator in chronological order are as follows:

1. **Identification of Properties**. The Treasurer's staff will identify those cases for which a tax delinquency exists on vacant and abandoned land. The county land bank may also identify properties they would like to acquire. The Coordinator will work with the Treasurer's staff and the county land bank to identify from this group those particular properties which are particularly suitable for foreclosure from the standpoint of neighborhood and city or county land bank interest. While not the Coordinator's main duties, he will need to always interact with the Treasurer's staff, county land bank, county-wide city officials and community groups to explain the process and to participate in channeling those lots to the H.B. 294 process.
2. **Interaction with Prosecutor**. The Coordinator will work closely with the Prosecutor to make sure that pleadings, publication notices and affidavits, journal entries and practice forms conform to H.B. 294 legal requirements and standards. As proceedings evolve, these forms will likewise require routine and periodic revision and updating which the Coordinator should draft and recommend for BOR adoption. Though effective service of process is the Prosecutor's responsibility, the Coordinator will monitor the Clerk of Court's docket weekly to confirm which cases reflect good service of process, and which ones require ordinary mail or service by publication and inform the Prosecutor accordingly. The Coordinator will keep an ongoing tally of these cases and, based on protocols set up between the Coordinator and Prosecutor request that these cases be prepared for disposition.
3. **File Assembly**. Once service of process appears to be perfected, the Coordinator will coordinate with the Prosecutor which cases are ready for hearing and assemble such files from the Clerk by signing these files out at the Clerk's file desk. Once in the Coordinator's possession, the Coordinator will commence to determine the readiness of the file for hearing. This begins with filling out the Confirmation of Process Form, locating green cards and/or downloading or printing out the Clerk's docket to reflect effective service of process. In the event service is perfected by publication, the Coordinator will need to verify that the "diligence" Affidavit (i.e. the Prosecutor's efforts at locating the defendants), along with the affidavit confirming publication (as well as the publication itself) are included in the file. Provided all parties have been served by one of the methods prescribed in Civil Rule 4, the Coordinator will proceed to confirm case readiness as prescribed below.

4. **Confirmation of Preliminary Judicial Report.** The preliminary judicial report (“PJR”), as well as the final judicial report, are not title insurance, but, rather, title guarantees, i.e. confirming the state of existing title. In other words, the title company guarantees that the property permanent parcel number referenced in the Complaint and the property description do indeed relate to the particular property being foreclosed. The Coordinator will confirm the permanent parcel number in the Complaint and the preliminary judicial report are the same. More importantly and essential, the Coordinator will also compare the legal description in the PJR with the prior recorded instrument from which the PJR title description is taken so as to confirm that they are exact. If there is any discrepancy between the prior instrument and the title company’s description, this must be brought to the Prosecutor’s attention for a determination as to whether the discrepancy is minor or requires a formal supplemental endorsement or new PJR altogether and re-serving of the Complaint. Prior to the final hearing, the Coordinator must make sure that the matter has been resolved either way before advising the BOR to move forward.

5. **Completion of the “Certificate of Readiness.”** The Certificate of Readiness is intended to be an all inclusive checklist by which the Coordinator can testify at hearings that based on completeness of the form, the case is ready for adjudication. Accordingly, the Coordinator must not only confirm the correctness of the PJR description and identify any needed endorsements and confirm service of process, but he/she must make sure that the docket or PJR or Final Judicial Report (FJR) reflects no bankruptcy proceedings, no suggestion of death of any party for which heirs are not served, that military affidavits for individuals in title are in the file, along with the letter or statement from any municipality indicating its interest in receiving the property. The Coordinator will also identify for the BOR whether the tax impositions exceed the fair market value for purposes of determining for the BOR which alternative judgment entry and order of sale is required (discussed later), and confirming that all parties have been served with the actual final hearing date either by publication or a notice of hearing filed with the Clerk.

6. **Notice of the Hearing.** In cases where the parties have been served by certified mail and/or regular mail, the Coordinator will advise the Prosecutor that service has been perfected and invite the Prosecutor to submit a “Request for Hearing.” In the case where parties must be served by publication, the Coordinator will need to verify that the Prosecutor has requested such service. Because this is time-sensitive matter, the Coordinator must establish a date certain on which the hearing is to be set so that the Prosecutor can, in turn, publish that final hearing date in the service by publication itself. In this way, publication of the proceeding itself and the hearing date can be published in one publication rather than incurring the cost of two publications. In the case of service by certified or regular mail, the Coordinator, upon receiving the request for hearing will set the matter up for hearing. The Coordinator must completely fill out the notice of hearing date, time and location (he must confirm the availability of all board members and a meeting room), and file the notice of hearing date with the Clerk (retaining a time-stamped copy). The Coordinator should never schedule a hearing without at least two weeks prior notice to all parties. And, the statute requires that hearings be set no sooner than 30 days after service of process has been perfected on all parties.

7. **Preparation for Hearing and Hearing.** The Coordinator will list all cases in chronological order and prepare a sheet titled “Coordinator’s Notes” which will identify for the BOR any particular matters the Coordinator needs to bring to the Board’s attention (such as questionable service, questionable PJR, request for continuances, suggestion of payment, death, bankruptcy, etc.). The Coordinator will confirm for the Board whether the Auditor’s record indicates that the impositions exceed the fair market value of the property. The Coordinator will also confirm whether a municipality or community development group has expressed an interest in acquiring the property.

At the hearing, the Coordinator must be present and testify as to the procedural “readiness” of the file in terms of service of process, conformity of final judicial report, military affidavits, etc. and any other matters which come to the Coordinator’s attention about the property or the file.

8. **Pre-Assembly of Orders and Decrees for the Board.** The Coordinator will work to maintain the accuracy of the orders of sale/transfer and the adjudication decree forms (and periodic review and update same as needed). The Coordinator will become familiar with and actually prepare final adjudication orders and orders to the Sheriff. The Coordinator will become familiar with the two legally different adjudication forms (sale or direct transfers) and the three legally different orders (orders of sale, orders of sale with alternate instructions, and orders to transfers directly). Additionally, the Coordinator will have these instruments pre-prepared for the final hearing for submission to the BOR members. These final decrees and orders will have the force of law and impact substantial property rights, and therefore accuracy is crucial.

Each adjudication must contain a conformed deed description exhibit. At the conclusion of a case, and, in the event of a decree of foreclosure, the Coordinator will make sure that the appropriate adjudication (for sale or direct transfer) is signed by all board members present. The Coordinator will also make sure that the Board signs the appropriate order (whether order to transfer, order to sale with alternative instruction, order of sale).

In the event of any needed continuances, the Coordinator will supply the Board with a pre-prepared continuance form which should be signed at that time by all Board members. The continuance should state the date, time and location of the continued hearing, or indicate that the continuance is for an unspecified time and will be supplied with a separate order.

9. **Post-Hearing File Administration.** The Coordinator shall be responsible for delivering the adjudication decrees to the Clerk for journalization. The Coordinator shall file the adjudication decrees at the Clerk’s journal desk and retain a time-stamped copy. Upon retrieving a time-stamped copy, the Coordinator shall maintain the copy (with attached deed description for the file). Additionally, the Coordinator shall prepare the appropriate order of sale, order of sale with alternative instruction, or order of direct transfer; and attach: 1.) the copy of the journalized adjudication of foreclosure as Exhibit A; and, when applicable, 2.) an appropriate deed for signature by the Sheriff as Exhibit B. To do this, the Coordinator will have already submitted to the BOR at the hearing for its adoption, the determination of what type of order is required at the hearing (i.e., adjudication with direct transfer, or adjudication for sale) and secured their signatures thereon. With the original signed order of sale/transfer with the attached decree

(Exhibit A) and deed (Exhibit B), the Coordinator will file with the Clerk the order of sale, transfer, or sale with alternative instruction. The Coordinator will retain a time-stamped copy for the file.

10. **Deeds.** In connection with the preparation of the orders of sale/transfer, it is necessary for the Coordinator to identify the appropriate deed form for the BOR to adopt, and the Sheriff to execute. There are two suggested deed forms for H.B. 294 practice. The first is a form which directly transfers the property from the Sheriff to a city or a pre-approved community development group. Again, the Coordinator will have already received this information and prepared the deed naming the transferee city or community development group with attached deed description. The second deed is a deed that conforms to the order of sale with alternate instruction. This deed reflects that a property was either sold conventionally at a first auction to a buyer (to be filled out by the Sheriff in the event of a sale); or, in the event of no bidders, transferred to a municipality that has expressed an interest in the property. The Coordinator will actually fill in the name of such municipality indicating that the deed is for transfer to such municipality in the event that: 1.) the property was offered for sale; 2.) no minimum bid was made; and 3.) the city has elected to take the property. All this information should be on a form on which the Coordinator need only fill in the name of the City. In this way, once the Sheriff receives an order of sale with alternative instruction or an order of transfer, the Sheriff need do nothing more other than to sign the deed form prepared by the Coordinator.

11. **Confirmation of Sale or Transfer.** For sales or transfers to be legally valid, they must be "confirmed" by the BOR (except for Alternative Right of redemption cases where expiration of the 45-day time period acts as a self-executing "confirmation."). In the event of sales, the Coordinator must ascertain that a sale actually occurred and is reflected on the docket. This information comes directly from the Prosecutor who will advise the Coordinator that those cases are ready to be confirmed. Provided that no irregularities appear in the record, the Coordinator must prepare the appropriate confirmation (as the case may be) whereby the sale or transfer become final upon Board adoption and filing, or in the event of no sale and no city interest, the property is forfeited to the State. Pre-prepared forms for these orders should be prepared and maintained by the Coordinator. At its next available meeting, the Coordinator must submit these proposed confirmation orders or resolutions to the BOR for signature. The Coordinator is responsible for preparing the proper confirmation/forfeiture forms and supplying them to the BOR for signature. Once a confirmation of this type is made, the Coordinator shall file these at the Clerk's journal desk, retaining a time-stamped copy, placing it in the file and ultimately returning the file back to the Clerk.

In the case of transfers to municipalities, LRCs or community development groups, the Coordinator will confirm that such transfer has been ordered by the BOR, whereupon the Coordinator shall provide confirmation resolution forms, as needed, for the Board to sign and file the same with the Clerk at the journal desk upon which the transfer of the property will be confirmed. Again, the Coordinator will retain a time-stamped copy, place the same in the file and return the file to the Clerk.

12. **General Cooperation.** The success of HB 294 practice depends heavily upon a healthy respect for the time constraints, procedures, and expertise of all officials and administrators in the Treasurer's, Clerk's, Prosecutor's, and Sheriff's offices. The Coordinator shall do all that he/she can to schedule cases cooperatively with these officials and the BOR members. The Coordinator will need to periodically prepare rules of practice for adoption by the Board in cases where issues arise which require a systematic or codified procedure.

Lastly, the Coordinator must be available to speak offsite to neighborhood groups, city officials, seminars, and at other venues relating to the H.B. 294 process as may be instructed by the BOR or the Treasurer.

V.

**FORMS FOR THE BOARD OF REVISION OF
_____, COUNTY, OHIO**

Index of Forms

1. Enabling Resolution of Board of Revision
2. Statement of Abandonment: Attachment to Prosecutor's or Certificate Holder's Complaint
3. Prosecutor's Intake Sheet
4. Special Notice and Summons
5. BOR Intake Sheet
6. BOR Confirmation of Service of Process
7. BOR Certificate of Readiness
8. Notice of Final Hearing
9. Interim Petition for Dismissal
10. Certificate Holder's Interim Petition to Avoid Sale
11. Prosecutor's Interim Petition to Avoid Sale
12. Notice of Interim Hearing of Prosecutor or Certificate Holder
13. Notice of Interim Hearing by Owner or Lienholder
14. Sua Sponte Order of Dismissal
15. Dismissal Order (20-Day Rule)
16. Dismissal Order (Payment)
17. Dismissal Order (Impositions/Complexity)
18. Denial of Petition for Interim Dismissal
19. Finding of Abandonment
20. Finding: Adequacy of Service of Process
21. Order to Avoid Sale
22. Denial of Petition to Avoid Sale
23. Finding: Impositions vs. Value

24. Motion for Hearing Continuance
25. Order Granting Continuance
26. Denial of Continuance
- 27(A) Foreclosure Order: Direct Transfer
- 27(B) Foreclosure Order: Sheriff Sale
28. Combined Order of Sale/Direct Transfer
29. Order to Sheriff to Transfer to Certificate Holder
30. Order to Transfer to Community Development Group
31. Combined Order of Confirmation of Sale or Forfeiture to State
32. Municipal Consent: Transfer to Community Development Group
33. Statement of Municipal Interest to Acquire
34. Deeds (Direct); Deeds (Sale)
35. Order Pertaining to Nuisance Assessments
36. Orders to Vacate

IN THE BOARD OF REVISION
_____ COUNTY, OHIO

**IN RE: Resolution to Invoke Provisions of
 H.B. 294 Signed into Law of June 28, 2006,
 Effective Date, September 28, 2006**

Resolution of the _____ County Board of Revision
Authorizing the Hearing and Adjudication of Foreclosure of Tax Delinquent
Abandoned Lands by the Board of Revision Pursuant to R.C. 323.66

Pursuant to R.C. 323.66(A), and in lieu of utilizing the judicial foreclosure proceedings and other procedures and remedies available under R.C. 323.25 to 323.28 or under R.C. Chapters 5721.01 et seq., 5722.01 et seq., or 5723, the _____ County Board of Revision hereby elects to foreclose the state’s lien for real estate taxes upon abandoned land (as defined in R.C. 323.65) in the county; and further resolves and elects, upon the complaint of a certificate holder (as defined in R.C. 5721.30 et seq.), to foreclose the lien of the certificate holder (held pursuant to R.C. 5721.30 to 5721.43) against those properties deemed abandoned lands pursuant to R.C. 323.65.

The Board of Revision hereby elects and resolves to hear and adjudicate foreclosure proceedings involving tax delinquent abandoned lands in the manner prescribed by R.C. 323.65 to 323.79.

IT IS SO ORDERED:

(Auditor)

Commissioner

Date: _____

Date: _____

(Treasurer)

Date: _____

FORM NO. 1: R.C. 323.66(A) Resolution of Board of Revision

Pursuant to Revised Code 323.66(A), the expedited foreclosure proceedings in the Board of Revision for tax delinquent properties may be invoked by Board of Revision resolution. Therefore, for those counties desiring to make use of the provisions of R.C. 323.65–323.75 this form can be used to invoke the process.

Of course, once invoked, the Treasurer, Commissioners or Auditor, as the case may be, should coordinate internally with the Board of Revision offices and the respective elected offices that will be handling some portion of the foreclosure proceeding (Treasurer, Prosecutor, Clerk, Sheriff). Although the statute is designed to mimic existing judicial procedures (see: e.g. entries and captions commonly seen in a judicial foreclosure), appropriate “touching base” should be undertaken to make sure that the effort is coordinated and the Board of Revision has the cooperation of the other respective offices.

It is recommended that this enabling resolution be published for a few weeks in a periodical of general circulation, although the statute does not require this.

Attachment to Complaint or Placement in the File

Form 323.65(G): Statement of Abandonment

This form submitted by:

_____ County, Municipality, Township
_____ Treasurer _____ Auditor _____ Prosecutor
_____ Community Development Group
_____ Other: _____

For the reasons stated in R.C. 323.65(A) and (G), the undersigned states on information and belief that the parcels listed below may constitute Abandoned Land(s):

1. **List parcels:**

Permanent Parcel Nos.

_____ Structures__ Vacant__
_____ Structures__ Vacant__

2. **If available, list indicia (may be anecdotal) of abandonment, if available:**

- ___ tax delinquent vacant land
- ___ overgrown weeds
- ___ dumping or noticeable accumulation of trash/debris
- ___ absence of one or more utility services or hook-ups
- ___ building/environmental code violations
- ___ boarded up structure
- ___ open, vacant and/or vandalized
- ___ condemned by political subdivision (attach condemnation order, if available)
- ___ statutory drug/nuisance condemnation (attach condemnation, if available)
- ___ other (explain briefly) _____
- _____
- _____

Submitted by: _____

(Print Name)

Title: _____

Date: _____

[This form is not a requirement to invoke the provisions of H.B. 294 against a particular parcel, nor does it require any person to *certify* or *attest* to the matters above. Indeed, the question of “abandonment” can be asserted or contested at the BOR hearing by any interested party. In fact, abandoned parcels will probably come form city “wish lists.” This is merely helpful information for the BOR giving it an idea of the nature of the abandonment for purposes of jurisdiction.]

FORM NO. 2
R.C. 323.65(G)
Attachment to Complaint

This is a simple informational sheet which supplies the Board of Revision with anecdotal information of abandonment. The form informs the Board where the suggestion of abandonment originated (municipalities, treasurer, community development group, etc.). Further, the form identifies the tax delinquent parcel(s) and suggests generalized indicia of abandonment (board-up, condemnation, overgrown weeds, etc.). The form is neither essential nor a requirement to institute foreclosure proceedings. It merely gives the Board some helpful preliminary information.

This form can be included in some fashion with all the other typical forms that come with a foreclosure as the case is being prepared (preliminary judicial report, parcel description, and anything else the prosecutor wishes to attach).

Often, if an affected political subdivision has an official land bank under R.C. 5722.01 et seq., then the indicia of abandonment will often be in the form of an affidavit or letter from such political subdivision indicating the land is “Non-productive Land.”

IN THE BOARD OF REVISION
_____ COUNTY, OHIO

County Treasurer
[Certificate Holder]
Plaintiff

CASE NO. _____

vs.

Prosecutor's Intake and Status Sheet:

_____, et al.

Defendants

Parcel No. _____ Structure _____ Vacant Land _____

Case Filed On: _____
(Date)

Last Date of Service Perfected on All Parties: _____

Notice of Interest from Municipality: _____

(Municipality)

Address: _____
City: _____
ZIP Code: _____
Contact Person: _____
Title: _____
Phone: _____

Suggestion that Impositions Exceed Auditors Fair Market Value? _____yes _____no

Named and Addresses of Parties of Record: Attorney of Record:

OWNERS:

Name: _____
Address: _____
City: _____
ZIP Code: _____

Name: _____
Address: _____
City: _____
ZIP Code: _____
Phone: _____

Name: _____
Address: _____
City: _____
ZIP Code: _____

Name: _____
Address: _____
City: _____
ZIP Code: _____
Phone: _____

Name: _____

Name: _____

Address: _____
City: _____
ZIP Code: _____

Address: _____
City: _____
ZIP Code: _____
Phone: _____

OTHER INTERESTED PARTIES OF RECORD:

ATTORNEY OF RECORD:

Name: _____
Address: _____
City: _____
ZIP Code: _____

Name: _____
Address: _____
City: _____
Zip: _____
Phone: _____

Name: _____
Address: _____
City: _____
ZIP Code: _____

Name: _____
Address: _____
City: _____
Zip: _____
Phone: _____

Prosecuting/Certificate Holder Attorney:

Name: _____
Address: _____
City: _____
ZIP Code: _____
Phone: _____

Intake Officer/Attorney:

Date

FORM NO. 3
Prosecutor's Intake and Status Sheet

Each prosecutor will likely develop his or her own intake form to track the status of service of process, number of parties, the effectiveness of service, the interest of other municipalities and such other information the prosecutor deems important.

This form merely is a suggested form containing this information for the prosecutor's use.

IN THE BOARD OF REVISION
_____ COUNTY, OHIO

1219 Ontario Street
1-216-443-6878

CASE NO. _____

_____ County Treasurer

Plaintiff

vs.

_____ et al.,

Defendants

(Name of Party Being Served)

(Address of Party Being Served)

Notice of Summons and Complaint

A foreclosure lawsuit for unpaid real estate taxes has been filed against property listed in the attached Complaint in which you may have a legal, equitable or other interest

It is alleged that delinquent real estate taxes stand charged against the named parcel(s); the Plaintiff alleges that the parcel(s) constitute abandoned lands pursuant to R.C. 323.25, 323.65 through 323.79 and/or 5721.18

The parcel(s), if ordered foreclosed, will be sold at public auction or conveyed to a political subdivision, land reutilization corporation, school district or eligible community development organization as prescribed in R.C. 323.65-323.79 unless redeemed by the owner or interested party. Such owner or interested party may so redeem the parcel(s) by payment of all applicable taxes, penalties, interest, assessments and

applicable costs as defined in R.C. 323.65(F) ("Impositions"); the owner or other interested party redeem the parcel(s) by paying the total of the Impositions at any time prior to the expiration of the alternative right of redemption under Sections 323.65(K) and 323.78 of the revised Code or otherwise prior to confirmation of the sale or conveyance of the parcel(s) pursuant to R.C. 323.65 to 323.79; the owner or other interested party may file a petition with the _____ County Board of Revision or Court of Common pleas, as applicable, asking for a hearing to determine whether the Impositions have been paid;

The _____ County Clerk of Court ("Clerk") shall maintain a docket for the case proceedings; all petitions and papers filed after this notice and summons must be filed with Clerk, which papers will become a part of the official case file. Copies of all such subsequently filed instruments must be served upon all parties to this lawsuit.

For cases filed in the Board of Revision, within 20 days after receiving service of this summons, any owner in title may file a petition in writing requesting that the case be resolved by judicial disposition. In that event, the case will not be disposed of under R.C. 323.65 to 323.79 until the current record owner sells or conveys the owner's ownership interest. Until such time, the foreclosure may commence judicially pursuant to R.C. 323.25 to 323.28 or R.C. Chapters 5721, 5722, and 5723.

You will continue to receive notification regarding any interim or final hearing, unless you are deemed in default of hearing.

_____ County Clerk of Court

Date: _____

By: _____
Clerk/Deputy Clerk

FORM NO. 4:

R.C. 323.69(B)(1) Notice of Summons and Complaint

When a civil action is filed, the lawsuit is filed with the Clerk. The Clerk sends out an official Notice of Summons and Complaint that gets sent to all the parties of record. This Notice officially notifies all party defendants that an action is being brought against them. This Notice sent by the Clerk is prepared in accordance of Rule 4 of the Ohio Rules of Civil Procedure. In accordance with Civil Rule 4, this notice initially is sent by certified mail. If it comes back unclaimed, it is sent by ordinary mail. If it comes back undeliverable due to incorrect address, due to the recipient having moved, etc. then the recipient's whereabouts must be determined and summons sent to that location.

If none of these procedures succeed in serving the particular defendant, then notice may be served by publication in accordance with Civil Rule 4. The Prosecutor and Clerk of Courts handle all these processes. In other words, the Board of Revision does not need to involve itself in securing service, but only confirming service prior to a hearing. In order to invoke the direct sale provisions in 323.78 (Alternative Right of Redemption), it is necessary to include this potential consequence in the Notice.

This particular Notice of Summons and Complaint is specifically designed to incorporate the specific information required in the statute R.C. 323.69(B)(1) which includes the contact information of the BOR and all the consequences of not paying the taxes.

IN THE BOARD OF REVISION
_____ **COUNTY, OHIO**

County Treasurer
[Certificate Holder]

Plaintiff

CASE NO. BR _____

vs.

_____, et al. **BOR Intake and Status Sheet**

Defendants

Case Filed On: _____
(Date)

____ Tax Lien Certificate Holder Foreclosure ____ County Treasurer Tax Foreclosure

Parcel No. _____ Structure ____ Vacant Land ____

Date of Service Perfected on All Parties of Record: _____

Notice of Interest from Municipality: _____

(Municipality)

Address: _____

City: _____

ZIP Code: _____

Contact Person: _____

Title: _____

Phone: _____

Suggestion that Impositions Exceed Auditors Fair Market Value? ____ yes ____ no

Named and Addresses of Parties of Record: **Attorney of Record:**

Name: _____

Address: _____

City: _____

ZIP Code: _____

Name: _____

Address: _____

City: _____

ZIP Code: _____

Phone: _____

Parties of Record:

Name: _____
Address: _____
City: _____
ZIP Code: _____

Name: _____
Address: _____
City: _____
ZIP Code: _____

Name: _____
Address: _____
City: _____
ZIP Code: _____

Name: _____
Address: _____
City: _____
ZIP Code: _____

Name: _____
Address: _____
City: _____
ZIP Code: _____

Attorney of Record:

Name: _____
Address: _____
City: _____
ZIP Code: _____
Phone: _____

Name: _____
Address: _____
City: _____
ZIP Code: _____
Phone: _____

Name: _____
Address: _____
City: _____
Zip: _____
Phone: _____

Name: _____
Address: _____
City: _____
Zip: _____
Phone: _____

Name: _____
Address: _____
City: _____
Zip: _____
Phone: _____

Prosecuting/Certificate Holder Attorney:

Name: _____
Address: _____
City: _____
ZIP Code: _____
Phone: _____

Name: _____
Address: _____
City: _____
ZIP Code: _____
Phone: _____

BOR Intake Officer:

_____ Date

FORM NO. 5
B.O.R. Intake and Status Sheet

Like the prosecutor's intake sheet, this form is merely a suggested intake sheet which provides an ongoing status of a case for the Board of Revision. It informs the Board whether it is a foreclosure by a tax lien certificate holder or by the _____ County Treasurer. It identifies the parcels, whether a municipality has expressed an interest in the property, the date that service was last perfected on all parties and the names, address and telephone numbers of all parties and their attorneys.

IN THE BOARD OF REVISION
_____ **COUNTY, OHIO**

_____ County Treasurer
[Certificate Holder]

Plaintiff

CASE NO. BR _____

vs.

_____, et al. **Confirmation of Service of Process**

Defendants

Service of Process was perfected on the following parties:

Defendant No. 1:

Name of Defendant: _____
_____ Certified Return Date: _____
_____ Green Card Attached ____ Docket attached
_____ Ordinary Mail Date: _____
_____ Publication Perfected On: _____

Defendant No. 2:

Name of Defendant: _____
_____ Certified Return Date: _____
_____ Green Card Attached ____ Docket attached
_____ Ordinary Mail Date: _____
_____ Publication Perfected On: _____

Defendant No. 3:

Name of Defendant: _____
_____ Certified Return Date: _____
_____ Green Card Attached ____ Docket attached
_____ Ordinary Mail Date: _____
_____ Publication Perfected On: _____

Defendant No. 4:

Name of Defendant: _____
_____ Certified Return Date: _____
_____ Green Card Attached ____ Docket attached
_____ Ordinary Mail Date: _____
_____ Publication Perfected On: _____

Defendant No. 5:

Name of Defendant: _____

_____ Certified Return Date: _____

_____ Green Card Attached _____ Docket attached

_____ Ordinary Mail Date: _____

_____ Publication Perfected On: _____

Coordinator of Board of Revision

Date

Print Name:

[This form need not be filed. It is merely another internal cross check with the Certificate of Readiness to specifically confirm whether service of process has be perfected on all parties to the Complaint]

FORM NO. 6:
R.C. 323.70
Confirmation of Service of Process

This form is not necessary to the proceedings themselves, but a written checklist confirming service of every defendant is crucial to the effectiveness to the proceeding. R.C.323.70 requires that no hearing can be set until Civil Rule 4 service of process has been perfected. Because service of process is so essential to the effectiveness of Board of Revision and judicial foreclosures, it is highly suggested that every single individual defendant named in the complaint have a separate listing on a sheet such as the “Confirmation of Service of Process” which can specifically and individually be checked off. The form would confirm whether the service of process was by certified mail, ordinary mail or publication, and the exact date thereof. Ideally, green card receipts of certified mail should be attached as they are received; or in the event of ordinary mail service or service by publication, this portion of the Clerk’s docket sheet should likewise be attached so that the Board of Revision can not only confirm service by looking at the docket, but can actually have green cards and copies of the docket attached to this confirmation form. Again, Boards of Revision may use any system they wish to accurately confirm service of process. But, it is highly suggested that any such system have a check list whereby each individual named in the Complaint has been served.

Internal BOR Foreclosure Certificate of Readiness.

[This form can be used either as an informal internal check-list for the Board of Revision to confirm readiness for the final hearing or, the requirements can be more formalized as to specifically require the Prosecuting Attorney or the Certificate Holder’s Attorney to file the form. In other words, if the Board of Revision prefers to adopt a rule requiring the Prosecutor or Certificate Holder’s Attorney to prepare, complete and file the items listed in the Certificate of Readiness, it may do so. Otherwise, the form can be used as an internal checklist by which any of the parties and the Board of Revision can have dialogue and gauge the “readiness” of the case for final hearing. The form need not be filed]

IN THE BOARD OF REVISION
_____ **COUNTY, OHIO**

_____ County Treasurer
[Certificate Holder]

Plaintiff

CASE NO. BR _____

vs.

_____, et al. **Certificate of Readiness**

Defendants

Confirmed

Property Identification

_____ Description or Parcel No. in the Complaint and the Preliminary Judicial Report (“PJR”) are substantially the same.

_____ The Description in the Complaint and the Preliminary judicial report are not the same, but the description has been conformed or reformed and an endorsement from the title company has been filed attesting to the accuracy of the parcel description(s);

_____ The PJR property description is consistent with the prior instrument of record from which such description was derived; or there is sufficient information or copies of the Map to permit the BOR to confirm the accuracy of the PJR description and the description contained in the prior instrument conveyance upon which the PJR relied.

Parties and Service of Process

Confirmed:

_____ All parties named in the preliminary judicial report as having an interest in the subject parcel(s) have in fact been named in the Complaint;

_____ All parties that have been named in the Complaint have in fact been served either by certified mail, ordinary mail, hand delivery or by publication as provided in Civil Rule 4 of the Ohio Rules of Civil Procedure.

_____ There is no evidence or suggestion by any party that any of the parties named in the Complaint are absent due to active military service; or, are deceased, minors or incompetent (unless an appropriate guardian, administrator/executor or heirs at law has been named and served).

Proceedings

_____ Any deficiencies in the judicial report have been corrected or supplemented such that a final judicial report has been filed.

_____ The final judicial report consistently identifies the permanent parcel no(s) legal description and common addresses (if available) of the subject parcel(s).

_____ No party which has been served, has moved to have the case dismissed within 20 days of such service.

_____ No unresolved petition for dismissal or other unresolved petition is pending for which the Board of Revision elects to adjudicate separately from the final hearing. Alternatively, more parties to proceed to final hearing and to include any such interim petitions into the proceedings at final hearing.

_____ In the event the Board of Revision or Prosecuting Attorney conclude that the Impositions as defined in R.C. 323.65(F) exceed the fair market value of the subject parcel(s) (presumed to be the Auditor's Value), there are no appraisal proceedings pending, and any petitions to avoid a Sheriff's sale have been disposed of.

_____ Except for Publication Cases, Notice of any Interim or Final Hearing was served on all parties named in the Complaint at the address at which service was perfected, by filing said notice with the Clerk for postcard service.

_____ If any parties were deemed served by virtue of publication as prescribed by Civil Rule 4, then any notice of final hearing was in like manner published either in the notice of publication itself or separately published.

_____ The notice of publication is in the file.

_____ No party, prior to the time of the notice of final hearing, has paid the Impositions (as defined in R.C. 323.65(F)) in full, nor has any owner of the parcel(s) in question entered into a payment plan therefor prior to the notice of the final hearing.

_____ There remains no dispute between the Treasurer and any owner of the subject parcel(s) that the taxes charged against the parcel(s) in question remain delinquent and unpaid.

_____ There are no petitions or inconsistent information pending suggesting or challenging: a) whether the parcel(s) constitute “abandoned lands” as defined in R.C. 323.65 or, b.) whether service of process has been perfected on any party.

_____ The identity (if any) of the municipality, township, county or eligible and approved community development organization is on file with the Board of Revision as described below:

(exact legal name, for deed purposes, of the municipality, township, county or pre-approved community development organization expressing its desire to receive title to the parcel(s))

_____ Up to the date of the notice of final hearing, there is no suggestion or information indicating that the parcel(s) and any owner thereof are the subject of any bankruptcy, receivership or forfeiture proceedings.

_____ The file contains a Final Judicial Report;

_____ For natural persons, the file contains a “Military Affidavit.”

_____ Notice of the Final Hearing was filed with the Clerk.

_____ Has the Alternative Right of Redemption been requested in the Complaint?

_____ Date: _____
BOR Secretary
(if BOR personnel will complete form internally)

FORM NO. 7

Certificate of Readiness

This form and the entries therein are self-explanatory. This form seeks to confirm that the essential elements and documentation necessary to a proceeding generally, and a foreclosure proceeding particularly, have been performed sufficient to bring that matter to a final hearing.

The Parcel Identification

The first section has to do with accurately identifying the properties to be foreclosed upon and confirming the descriptions in the preliminary judicial report, taxes owed up to that point, and confirmation of service of process.

Parties and Service of Process

Accurate identification of the parties and service of process cannot be verified often enough. This is crucial to the validity of the proceedings and should be reconfirmed prior to conducting a hearing.

Interim Proceedings Subsequent to the Filing of Complaint

The statute provides for a number of interim actions prior to final hearing which include everything from a sua sponte dismissal of the action, to hearings involving property valuation, findings of abandonment, assertions by junior lien holders, etc. It is very rare that these proceedings will actually be invoked by a party. However, in order to assure adequate due process to parties in the context of foreclosure, the statute makes provision for these proceedings. Inasmuch as the statute allows for such interim proceedings, it is necessary to make sure that all of these hearings have either been heard and disposed of, or incorporated into the final hearing which the statute permits. Once the Certificate of Readiness has been checked off, the Board is in a position to schedule a final hearing. Alternatively, the final hearings can be scheduled in advance even though the case may not be totally ready for final hearing. However, at some point from the time of scheduling the hearing to the final hearing itself, the Certificate of Readiness must reflect that the file is ready for final hearing.

It is suggested that cases be set for final hearing after the Certificate of Readiness has been completed so that in those instances where a case has been scheduled for hearing but not ready for adjudication, the case will not thereby have to constantly be reset or continued.

Each county Board of Revision may have separate internal requirements which would add to or delete from the suggested items of the Certificate of Readiness.

**IN THE BOARD OF REVISION
_____ COUNTY, OHIO**

(Form 323.70(A))

County Treasurer

Plaintiff

CASE NO. BR _____

vs.

_____, et al. **NOTICE OF FINAL HEARING
IN THE BOARD OF REVISION
_____ COUNTY, OHIO**

Defendants

To: **ALL DEFENDANTS NAMED IN THE COMPLAINT**

From: _____ County Board of Revision

Address: _____
City/ZIP: _____
Phone: _____

Pursuant to R.C 323.25, 5721.18 and/or R.C. 323.65-323-79, you are notified that a final foreclosure hearing is scheduled for the property permanent parcel no(s.) _____. _____ County Records list you as an Owner or interested party in such property. The hearing is on _____ at the County Administration Building located at _____, Ohio in Room ___ at _____ o'clock __.m.

This is a real estate tax foreclosure proceeding against the aforesaid parcel(s) for non-payment of real estate taxes. To avoid foreclosure, you must pay the full amount of the delinquent taxes, plus interest, penalties and costs incurred to date (“**Impositions**”). You may be eligible to enter into a payment plan under R.C. 323.31. To find out if you are so eligible you must come to the offices of the _____ County Treasurer’s office located at _____, Ohio 44____.

If the Impositions exceed the Auditor’s property valuation and the property is foreclosed upon, the property may be transferred directly to a municipality, school district, land reutilization corporation, township, county or eligible community development group (defined in R.C. 323.65-79) **without** a Sheriff’s sale; or without reference to valuation, may be so transferred pursuant to R.C. 323.78 (alternative right of redemption) upon expiration of forty-five (45) days from the date of any journalized decree of foreclosure, without further notice and without sheriff’s sale.

Failure to attend and defend your interests may result in an adverse decision against you. This means that the aforesaid parcel(s) may be foreclosed upon, sold at Sheriff’s sale for the Impositions owed, or transferred directly to a township, municipality, school district, land reutilization corporation, county or community development group in the manner described herein. In such event, you will lose any right, title or interest in said parcel(s).

Board of Revision Secretary, Staff
Court: IT IS SO ORDERED

Notice Date: _____

Judge: _____

FORM NO. 8
R.C. 323.69(B); 323.70 and 323.78
Notice of Final Hearing

Once a Certificate of Readiness indicates that a case is ready for adjudication (or if a Board of Revision prefers to notice cases prior to a complete Certificate of Readiness check-off), a notice of final hearing nevertheless must be filed with the Clerk who will send a notice of the hearing by postcard (or other customary practice) to all parties of record at the address where they were served by the Clerk. (*See*: 323.69(B) and 323.70)

A Notice of Final Hearing can either be addressed generally to “All Parties of Record,” particularly where the Clerk uses a postcard system to notify parties of a hearing, or individual notices which list the name and address of each individual defendant can be sent, though this will require more paperwork and cost. Of course, the Notice should also contain the name, address and telephone number of the Board of Revision.

The form should indicate the exact time, location and date of the foreclosure proceedings. As with other notices of hearing in this practice guide, there should always be an invitation to pay the taxes, penalties and interest in order to avoid the foreclosure;

Lastly, all notices should have bold typewritten language strongly urging the parties to attend so as to avoid the likely entry of an adverse judgment against them. Further, the notice should have a statement that the Alternative Right of Redemption may have been invoked, and that if so, no appraisal or Sheriff sale will occur and that the property, regardless of its value may be directly transferred to a city or LRC

IN THE BOARD OF REVISION
_____ **COUNTY, OHIO**

County Treasurer
[Certificate Holder]
Plaintiff

CASE NO. BR-_____

vs.

_____, et al. Petition of Owner, Lienholder, for Order of Dismissal/Stay of Proceedings Due to Payment or Preservation of Interest

____ Owner(s), ____ Lienholder(s) or ____ Interested Party of Record [select applicable category] hereby petitions the Board for an order dismissing the case for the reason that:

1. ____ All applicable taxes, interest, penalties and interest have been paid in full;
2. ____ The interest of a lienholder or interested party of record seeks to preserve the lienholder's or interested party's security interest of record;
3. ____ The Owner(s) has entered into a tax payment plan per R.C. 323.31
4. ____ Other [Please explain below]

[Please provide a brief statement of support for the petition in the space below, or attach a concise statement in support for the petition]

[ALL PAPERS FILED WITH THE BOARD MUST BE FILED WITH THE CLERK OF COURTS ON THE 1ST FLOOR OF _____ AT _____, _____ OHIO 44___; AND INDIVIDUALLY COPIED AND SENT TO ALL PARTIES OF RECORD BEFORE THE BOARD WILL CONSIDER ANY PETITION. BY SIGNING THIS PETITION, YOU ATTEST THAT YOU HAVE SENT A COPY OF THIS PETITION TO ALL PARTIES OF RECORD]

Name: _____
Print Name: _____
Address: _____
City, State, ZIP: _____
[Attorney for _____]
Phone: _____

Attest: All parties of record listed on the Complaint have been served by hand delivery, ordinary or certified mail.

Print Name: _____

FORM NO. 9
R.C. 323.71 and 323.72
Petition of Owner, Lienholder due Payment or Preservation of Interest

R.C. 323.71 and 323.72 address interim proceedings available to owners, lienholder, the Treasurer, or Certificate Holder. As a practical matter, these proceedings will be rarely invoked. Never the less, the statute allows owners and lienholders to petition to have a case dismissed or stayed either because the taxes, penalties and interest have been paid in full or a payment plan has been entered into under R.C.323.31. Typically, the Treasurer’s internal integrated record keeping system will likely flag these situations with the appropriate action being the entry of a dismissal entry with any hearing. In other words, the BOR will likely dismiss these cases long before a party files a formal motion to do so.

Additionally, an interested party or lienholder of record may seek a dismissal either due to the complexities of the case or to “preserve the interest of the lienholder.” Typically the preservation of a secured party’s interest involves the question of making sure that any equity in excess of the tax imposition will be protected. In such cases, the Board of Revision has the *discretion* to continue to pursue the case to full adjudication, (in which case the litigants will have to set up and submit their own suggested order of priorities and marshalling of asset proposals to the Board, or do so in a separate civil court proceeding); or the Board can dismiss the case if it determines that the case raises issues that are either too complex or inappropriate for the Board of Revision under the circumstances. However, it must be noted that the statute gives guidance as to what is meant by “preservation of interest” by a lienholder. If the taxes, penalties and assessments exceed the Auditor’s fair market value of the property, obviously there is no equity left to preserve. In such instances, a request for an interim hearing to dismiss should not be granted unless the petitioner alleges and can show that the underlying fair market value of the property exceeds the tax impositions against the property.

Because this is a motion or a “Petition” before the Board asking for it to do or consider something, the form itself should contain language that the motion or “Petition” itself must be served on all parties of record to the proceeding. Indeed, the party filing the petition must attest that all parties have indeed been served by ordinary U.S. mail, or that ones not served were not entitled to service due to some form of default of appearing at a hearing. .

While a petitioning party may utilize any form, it is strongly suggested that all parties be informed of the Board’s strong preference of using the simplified forms used in the practice guide. The reason is obvious. Boards of Revision are not always composed of judges, lawyers or real estate experts. Hence, the greater the uniformity and simplicity of the forms, the better. In other words, it should be easy for litigants to utilize the forms; and, it should be easier for the Board of Revision members to work with recognizable forms.

Ultimately, this will undoubtedly be a little-used form due to the infrequency of the proceeding.

323.71 and 323.72: Interim Proceedings to Avoid Sale: R.C. 323.73(G)

**IN THE BOARD OF REVISION
_____ COUNTY, OHIO**

County Treasurer
[Certificate Holder]

Plaintiff

CASE NO. _____

vs.

_____, et al. Notice to Clerk and Petition of Certificate Holder to Avoid Sale

Pursuant to R.C. 323.71, Petitioner states it is a Certificate Holder as defined in R.C. 5721.30 et seq. Petitioner hereby gives Notice to the Clerk, and Petitions the Board for an Order dispensing with a Sheriff's Sale of the parcels which are the subject of this proceeding for the reasons that the taxes, interest, penalties, assessments, charges and costs ("Impositions") levied against such parcels exceed the fair market value of such parcels as determined by the Auditor. Based on the latest duplicate, the Auditor's combined valuation for the subject parcels is:

Auditor's Value: \$ _____
Total Impositions \$ _____

Pursuant to R. C. 323.71, Petitioner further requests that this motion and the final hearing be merged and the case set for final hearing. Petitioner attaches hereto: a.) A copy of the Auditor's most recent valuation of the subject parcels; b.) the Auditor's or Treasurer's certification of the total Impositions to date. Petitioner further asks the Board to order the Sheriff to deed the subject parcel(s) directly to the above-mentioned Certificate Holder.

[ALL PAPERS FILED WITH THE BOARD MUST BE FILED WITH THE CLERK OF COURTS AT _____, OHIO 44__ ; AND INDIVIDUALLY COPIED AND SENT TO ALL PARTIES OF RECORD BEFORE THE BOARD WILL CONSIDER ANY PETITION. BY SIGNING THIS PETITION, YOU ATTEST THAT YOU HAVE SENT A COPY OF THIS PETITION TO ALL PARTIES OF RECORD]

Name: _____
Print Name: _____
Address: _____
City, State, ZIP: _____
Phone: _____
Plaintiff's Attorney: _____

Attest: All parties of record listed on the Complaint have been served by hand delivery, ordinary or certified mail.

Print Name: _____

FORM NO. 10

323.71 and 323.72: Proceedings to Avoid Sale: R.C. 323.73(G)

The Notice to the Clerk seeking an interim or final order from a certificate holder to avoid a Sheriff's sale has to do with the statute's recognition that in tax foreclosure cases, the minimum bid is always the impositions (taxes, penalties, interests, and costs). It is not necessary to file this form as the BOR can determine itself whether the Impositions exceed the fair market value of the parcel. However, this form can be used to draw attention to and emphasize that fact. In those instances where the impositions far exceed the fair market value of the property (as with a long-derelict vacant lot), the act of technically holding a Sheriff's sale becomes perfunctory at best, and illusory at worst. In other words, with a vacant lot having a fair market value of \$500.00 and tax liens in excess of \$10,000, it is not necessary to auction the parcel at public sale since the state's or certificate holder's lien is not only first, but far in excess of any junior lien holder. The expenditure of public resource is wasteful and the certificate holder need simply bid its lien and thus serve as the highest bidder. In these instances, the form allows a certificate holder to have an adjudication in advance that the impositions exceed the fair market value so that in the event a foreclosure is adjudicated, the property can simply be ordered transferred directly to the certificate holder without the need for costly appraisal or public auction.

To this end, the certificate holder must aver in his petition what the Auditor's value of the property is, along with the amount of the tax impositions of record so that at least a prima facie case is presented to the Board. Again, because this is a petition of one of the litigants, it must be served on all parties of record and the petition itself should contain such admonition, as well as an attestation by the certificate holder that indeed such mailing has occurred. Ultimately, however, the BOR can make these findings and order direct transfers on its own at a final hearing in which it orders foreclosure upon motion at any final hearing. or upon its own motion.

IN THE BOARD OF REVISION
_____ COUNTY, OHIO

County Treasurer
[Certificate Holder]
Plaintiff

CASE NO. BR _____

vs.

_____, et al. Notice to Clerk and Petition Sale
of Treasurer to Avoid

Defendants

Pursuant to R.C. 323.71, Petitioner hereby gives Notice to the Clerk, and Petitions the Board for an Order dispensing with a Sheriff's Sale of the parcels which are the subject of this proceeding for the reasons that the taxes, interest, penalties, assessments, charges and costs ("Impositions") levied against such parcels exceed the fair market value of such parcels as determined by the Auditor. Based on the latest duplicate, the Auditor's combined valuation for the subject parcels is:

Auditor's Value: \$ _____
Total Impositions \$ _____

Pursuant to R. C. 323.71, Petitioner further requests that this motion and the final hearing be merged and the case set for final hearing. Petitioner attaches hereto: a.) A copy of the auditor's most recent valuation of the subject parcels; b.) the Auditor's or Treasurer's certification of the total Impositions to date; and, c.) documentation from a qualified transferee (if any) pursuant to R.C. 323.73(G) expressing an interest in receiving the property. Petitioner further asks that the Board order the Sheriff to deed the subject parcel(s) directly to the above-mentioned qualified transferee.

[ALL PAPERS FILED WITH THE BOARD MUST BE FILED WITH THE CLERK OF COURTS AT _____, OHIO 44__ ; AND INDIVIDUALLY COPIED AND SENT TO ALL PARTIES OF RECORD BEFORE THE BOARD WILL CONSIDER ANY PETITION. BY SIGNING THIS PETITION, YOU ATTEST THAT YOU HAVE SENT A COPY OF THIS PETITION TO ALL PARTIES OF RECORD]

Address: _____
City, State, ZIP: _____
Phone: _____
Plaintiff's Attorney: _____

Attest: All parties of record listed on the Complaint have been served by hand delivery, ordinary or certified mail.

Print Name: _____

FORM NO. 11

323.71 and 323.72: Interim Proceedings to Avoid Sale: R.C. 323.73(G)

The Notice to the Clerk seeking an interim or final order from the Plaintiff to avoid a Sheriff's sale has to do with the statute's recognition that in tax foreclosure cases, the minimum bid is always the impositions (taxes, penalties, interests, and costs). In those instances where the impositions far exceed the fair market value of the property (as with a long-derelict vacant lot), the act of technically holding a Sheriff's sale becomes perfunctory at best, and illusory at worst. In other words, with a vacant lot having a fair market value of \$500.00 and tax liens in excess of \$10,000, it is not necessary to auction the parcel at public sale since the state's lien is not only first, but far in excess of any junior lien holder. The expenditure of public resource is wasteful and the certificate holder need simply bid its lien and thus serve as the highest bidder. In these instances, the form allows the Plaintiff to have an adjudication in advance that the impositions exceed the fair market value so that in the event a foreclosure is adjudicated, the property can simply be ordered transferred directly to the appropriate city land bank without the need for costly appraisal or public auction.

Just as with the certificate holder's petition to avoid Sheriff's sale, the prosecutor should state the auditor's value of the property as well as the amount of the total impositions of record. However, unlike the certificate holder, because the plaintiff (a treasurer) will not technically take possession of the property, a direct transfer without appraisal or auction by the Treasurer will usually occur because a municipality has stated its interest to acquire the property, or to have the property delivered to a pre-approved community development organization. If no municipality asks to receive the property, then the property must be sent for a Sheriff's sale and, if no bidders bid, then the property will forfeit to the State (See: Confirmation and Forfeiture Order). Ultimately, however, the BOR can make these findings and order direct transfers on its own at a hearing in which it orders foreclosure upon motion at any final hearing, or upon its own motion.

In this situation, the Board is being asked pursuant to R.C. 323.73(G) to have the property conveyed because the Impositions exceed the fair market value of the property. This form also allows the prosecutor to include some documentation from a municipality indicating its interest in acquiring the property by direct deed (or to a pre-approved community development organization).

This form includes the admonition that the petition should be filed upon all parties of record along with an attestation confirming such service.

**IN THE BOARD OF REVISION
_____ COUNTY, OHIO**

County Treasurer
[Certificate Holder]

Plaintiff

CASE NO. _____

vs.

**Notice of Interim Hearing in the Board of
Revision, _____ County**

_____, et al.

Defendants

To: **ALL DEFENDANTS NAMED IN THE COMPLAINT**

From: _____ County Board of Revision

Address:

City/ZIP:

Phone:

You are hereby notified that a foreclosure action has been filed on _____, 200__ against the property being permanent parcel no(s.) _____.

You are listed as an Owner or interested party of record as reflected in the _____ County Records. The Prosecuting Attorney or Tax Lien Certificate Holder believes that the taxes, penalties, interest, assessments and costs ("Impositions") against the aforesaid parcels exceed the Auditor's fair market value of such parcels. **This means that if the Board of Revision orders the parcels foreclosed, the parcels likely will be transferred to an eligible township, municipality, county or community development group without a Sheriff's sale. In such event, you will forever lose any right, title or interest in and to said parcel(s).** A hearing on this question is scheduled on _____, 200__. The hearing shall also include the final foreclosure hearing at which time the Board of Revision will determine whether to order the aforesaid parcels foreclosed for non-payment of taxes

To avoid the foreclosure, you or an interested party must either pay the full amount of the delinquent taxes owed, plus any interest, penalties and costs incurred to date; or you may be eligible to enter into a payment plan pursuant to R.C. 323.31 ("Payment Plan"). To find out if you are eligible for a Payment Plan, you must come to the offices of the _____ County Treasurer's office located at _____, Ohio 44__.

You are urged to attend the hearing. Failure to attend and defend your interests may result in an adverse judgment against you. This means that the parcel(s) listed above may be foreclosed upon and subject to a Sheriff's Sale at which time the property will be sold for the taxes or otherwise transferred directly to an eligible township, municipality, county or community development group without appraisal or sale or pursuant to the Alternative Right of Redemption as prescribed in R.C. 323.78. In such event, you will forever lose any right, title or interest in and to said parcel(s).

Board of Revision Coordinator/Asst. Secretary

Date:

FORM NO. 12

Notice of Interim Hearing on Prosecutor's/Certificate Holder's Interim Petition

Once a petition by a certificate holder or a treasurer is filed seeking to avoid a Sheriff's sale because the tax impositions exceed the fair market value of the property (R.C. 323 73 (G)), the BOR must decide whether it wishes to hear the petition in a separate hearing or merge the question into the final hearing. If the Board desires a separate hearing on the matter, a notice of such hearing must go out by the Board of Revision and served on all parties via the Clerk of Courts. As with the Notice of Final Hearing, each individual named in the complaint must get a separate Notice of Hearing sent to that party's address where original service was perfected (unless a new address is given or the litigants or the Board become aware of a new address for a particular party). As a practical matter, in cases where service has been made by publication, it is advisable that such hearings be merged into the final hearing published in the publication notice itself to avoid the costs of multiple publication for interim hearings. Again, these types of hearing would be rare and ideally should be merged and adjudicated as part of the final hearing.

Again, this will be a rarely-used proceeding. As a practical matter, the Preliminary Judicial Report submitted by the Prosecutor lists the Auditor's value of the parcel. If the Impositions exceed the fair market value of the property, the Board on its own (assuming it renders an order of foreclosure) can determine that the taxes exceed the fair market value of the parcel and order a direct transfer to a municipality. Conversely, a party may wish to have a hearing in order to rebut the Auditor's valuation in hopes of assuring a sale rather than a direct transfer.

The Board of Revision address and telephone number is listed. The notice reiterates that a foreclosure action is pending on the particular parcels in question and that either the certificate holder or the prosecutor is seeking that a Sheriff's sale be avoided because the tax impositions exceed the fair market value of the property.

The form provides the time, date and place of the hearing. The parties are notified that the foreclosure can be avoided by way of paying the tax impositions or entering into a payment plan pursuant to R.C.323.31.

Lastly, the bold written admonition is stated in this notice indicating that failure to attend the hearing risks an adverse judgment against that particular defendant.

IN THE BOARD OF REVISION
_____ COUNTY, OHIO

County Treasurer
[Certificate Holder]
Plaintiff

CASE NO. _____

vs.

**Notice of Interim Hearing: Owner,
Lienholder, Interested Party**

_____, et al.

To: **ALL DEFENDANTS NAMED IN THE COMPLAINT**

From: _____ County Board of Revision
Address: _____
City/ZIP: _____
Phone: _____

Pursuant to R.C. 323.71 and 323.72, you are hereby notified that a foreclosure action has been filed on _____, 200__ against the property commonly known as being permanent parcel no(s.) _____. You are listed as an Owner or interested party of record as reflected in the _____ County Records.

Either one of the owner's of record or one or more of the interested parties of record has filed a petition for a hearing to determine: a) whether all of the delinquent taxes, penalties, costs and interest have been paid on the parcels which are the subject of this proceeding; or b.) whether there are important legal or factual reasons why the case should be continued, delayed or dismissed in the interest of justice or in order to preserve the interest of an interested party as set forth in R.C. 323.71 and 323.72. A hearing concerning this question is scheduled on _____, 200__.

To avoid the foreclosure, you must either pay the full amount of the delinquent taxes owed, plus any interest, penalties and costs incurred to date; or you may be eligible to enter into a payment plan pursuant to R.C. 323.31 ("Payment Plan"). To find out if you are eligible to enter into a Payment Plan, you must come to the offices of the _____ County Treasurer's office at _____, Ohio 44____.

You are urged to attend the hearing. Failure to attend and defend your interests may result in an adverse judgment against you. This means that the parcel(s) listed above may be foreclosed upon and subject to a Sheriff's Sale at which time the property will be sold for the taxes or otherwise conveyed directly to an eligible township, municipality, county or community development group. In such event, you will forever lose any right, title or interest in and to said parcel(s).

Board of Revision Secretary/ Asst. Secretary

Date:

FORM NO. 13
R.C. 323.71 and 323.72: Interim Proceedings
Notice of Interim Hearing by Owner, Lienholder Interested Party

This notice is designed to coincide with a petition of a lienholder, owner or interested party seeking to have the case dismissed because of its complexity, the need to preserve a lienholder's interest or because payment has already been made. For the reasons stated in the previous form narrative, this proceeding, as a practical matter will rarely ever be utilized. However, if for some reason there is a true dispute over the impositions, whether they were paid or the value of the property, there must be a means for an interested party to contest or address these matters. As a practical matter, in cases where service has been made by publication, it is advisable that such hearings be merged into the final hearing published in the publication notice itself to avoid the costs of multiple publication for interim hearings. Again, these types of hearing would be rare and ideally should be merged and adjudicated as part of the final hearing.

As with the other forms, the name and address of the party of record must be listed along with the address and telephone number of the Board of Revision. In addition to the date, place and time of the hearing, the parcel numbers are also listed.

Finally, the notice advises the recipient that the foreclosure can be avoided by payment of the taxes or entering into a payment plan under R.C. 323.31.

Finally, the form includes the bold written admonition that failure to attend the hearing could result in an adverse judgment against the particular party.

IN THE BOARD OF REVISION
_____ **COUNTY, OHIO**

_____ County Treasurer
[Certificate Holder]

Plaintiff

CASE NO. BR _____

vs.

_____, et al. Order of Dismissal Sua Sponte

Defendants

This matter came on to be heard upon the Board of Revision's ("Board") own motion this ____ day of _____, 200___. Whereas the Board has concluded that due to payment, complexity of the case, the inability to timely prosecute the case or to secure effective service, or otherwise in the interest of justice of one or more parties hereto, the Board hereby dismisses the within proceeding sua sponte.

Additional Facts or Orders (if any):

IT IS SO ORDERED

County Treasurer

Date: _____

County Auditor

Date: _____

County Commissioner

Date: _____

Form 14
R.C. 323.69(D) Sua Sponte Dismissal

During the legislative hearings on the statute, questions arose as to unforeseen complexities in a particular case. In other words, although the statute provides for numerous opportunities for hearing relating to proceedings typically found in foreclosure cases, there will invariably be those instances where the Board of Revision simply is not equipped to handle a particular case due to the particular circumstances of that case. These circumstances, once again, can include the complexity of the case, uncertainty as to abandonment, service of process, extent of the Impositions or unusual impositions (like demolition or weed-cutting liens), inability to perfect service or the overall appropriateness of the case for adjudication. Rather than forcing the Board to hear these cases once its jurisdiction has been invoked, R.C. 323.69(D) simply provides that at any time within the Board's discretion it deems appropriate, and in the interest of justice it may dismiss a case, and it may do so upon its own initiative just like a Court. This form provides the language for such order.

IN THE BOARD OF REVISION
_____ **COUNTY, OHIO**

County Treasurer
[Certificate Holder]

Plaintiff

CASE NO. BR _____

Parcel No.: _____

vs.

_____, et al.

R.C. 323.70(B) Order
(20-Day Rule)

Defendants

This matter came on to be heard upon the request or the petition of one or more of the record owners, named in the Complaint having an interest of record ("Interested Party") in the parcels which are the subject of this proceeding, to dismiss the case. Such request or petition to dismiss the case is based upon such Interested Party's request for an automatic dismissal within twenty (20) days of legal service upon such Interested Party pursuant to R.C. 323.70(B). Whereas the Board finds that the petitioning Interested Party [___ has] [____ has not] requested a dismissal within the twenty (20) days of service upon such petitioning Interested Party, the petition is hereby:

_____ granted and this matter is dismissed pursuant to 323.70(B);

_____ denied and this matter will be scheduled for further proceedings

IT IS SO ORDERED

County Treasurer

County Auditor

Date: _____

Date: _____

County Commissioner

Date: _____

FORM NO. 15
R.C. 323.70(B) Order of Dismissal Based on the Twenty Day Rule

During the legislative hearings on the statute, certain legislators were concerned that the expedited foreclosure process might negatively impact upon property rights. Although extensive testimony was supplied indicating that the properties which are the subject of this statute are only those that are “abandoned,” there was concern that special hardship cases which should not be subject to expedited foreclosures should have a way out. Hence, although the specific provision allowing such an “out” can itself be abused by savvy speculators, or those seeking to delay for the sole purpose of delay, the statute nevertheless contains a provision in R.C. 323.70(B) which states that an Owner after having been served with Notice and Summons of Complaint may file thereafter within twenty days of such service a request to have the case dismissed. In the event of such request by a party defendant, the Board of Revision must dismiss the case. Such party

This form contains the language allowing such dismissal.

IN THE BOARD OF REVISION
_____ COUNTY, OHIO

_____ County Treasurer
[Certificate Holder]

Plaintiff

CASE NO. _____

vs.

_____, et al.

**R.C. 323.72(A),(B) Order
of Dismissal for Payment**

Defendants

This matter came on to be heard this _____ day of _____, 200__
upon the petition of:

- [__ the Plaintiff (Treasurer)];
- [__ Certificate Holder];
- [__ an Owner(s)];
- [__ a lienholder(s)]; or
- [__ interested party of record]

Whereas the Board has concluded that the Impositions referred to in R.C. 323.72(A)(1) have been paid in full the Board grants Petitioner's petition to dismiss, and the case is hereby dismissed.

IT IS SO ORDERED

County Treasurer

County Auditor

Date: _____

Date: _____

County Commissioner

Date: _____

FORM NO. 16 R.C. 323.72

The statute recognizes that any foreclosure (judicial or otherwise) can be avoided by simple payment of all the taxes, penalties and interest; or, prior to a foreclosure, the entering into payment plan contract under R.C. 323.31.

If, after a case has been filed, a party comes forward and pays the taxes or enters into a payment plan, the case must be dismissed in the case of a full payment. In the case of a payment plan, dismissal is discretionary. In other words, the case can still be adjudicated but not finally disposed of for a time to allow satisfactory evidence of continued payments under the payment plan. If the payments are made, the case can be later dismissed. If the payments stop, the BOR will have avoided the wasted time and money re-prosecuting the case. In the event of non-payments, the Prosecutor can simply ask that the foreclosure decree go to sale or transfer (as the case may be).

A request for dismissal due to payment can be made on motion for an interim determination (merged into the final hearing) or by the Board on its own motion in the event that payment, in fact, is otherwise verified. If there is a dispute as to whether full payment has been made, the proceedings in R.C. 323.72 can make this factual determination. This form supplies the language necessary for such dismissal.

IN THE BOARD OF REVISION
_____ COUNTY, OHIO

County Treasurer

[Certificate Holder]
Plaintiff

CASE NO. _____

Parcel No: _____

vs.

_____ et al.
Defendants

R.C. 323.71(A) and 323.72(C) Dismissal Order

On this ___ day of _____, 200___, this matter was heard upon the petition of:

[___ the Certificate Holder];
[___ a lienholder(s)];
[___ the Plaintiff]; or

[___ an Owner(s)];
[___ interested party of record];
[___ the Board]

to dismiss the case because:

- 1.) ___ all applicable taxes, interest, penalties and interest have been fully paid;
- 2.) ___ an interested party of record seeks to preserve a security interest (R.C. 323.71 and 72);
- 3.) ___ the Owner(s) has entered into a tax payment plan pursuant R.C. 323.31;
- 5.) ___ the Lands are Occupied as prescribed in R.C. 323.65-78; or
- 4.) ___ Other: _____

Whereas the Board has concluded that due to:

___ the finding that the Auditor's fair market value of the parcel(s) exceeds the combined delinquent taxes, interest, penalties and charges levied against the parcels and, due to the complexity of the case and in the interest of justice the case should be disposed of by judicial proceedings; and/or

- ___ Full payment of Impositions/Payment Plan;
- ___ Lack of Jurisdiction Occupied/Non-Abandoned Lands);
- ___ Matters or defects involving or affecting title;

the Board hereby grants Petitioner's petition, and the case is hereby dismissed.

IT IS SO ORDERED

County Treasurer
Date: _____

County Auditor
Date: _____

County Commissioner
Date: _____

FORM NO. 17
323.71(A)(3): 323.72-C

**Order of Dismissal Due to Payment, Complexity of the Case, Preservation
of Lienholders Interest, Jurisdiction, Market Value, Etc.**

R.C. 323. 71(A) and 323.72(C) provide for interim hearings by lienholders for the purpose, among other things, giving such lien holders the opportunity to argue that the expedited proceedings would thwart the lienholder's ability to preserve its security interest. When reading the entire text of 323.72, these situations would, in all likelihood be very limited because at minimum, the lienholder must first show that there is a security interest to be preserved. If the impositions exceed the fair market value of the parcel(s) then there is no practical security interest to preserve. And, just because the impositions may turn out to be less than the fair market value of the parcel, absent some compelling reason to the contrary, the Treasurer is nevertheless charged with foreclosing upon tax delinquent properties (abandoned or otherwise) regardless of any residual equity above the amount of the impositions.

Nevertheless, where a case presents unique or complex matters, or matters outside the common issues in a tax foreclosure, the Board may consider a dismissal. If the Board itself doesn't undertake such a dismissal because it is not aware of any such issues, the sections permit the lienholder, by way of petition to bring any such issues up at an interim hearing.

A previous Form is designed to serve as the petition requesting that a case be dismissed because of its complexity, need to preserve the interest of other interested parties. This form serves as the order granting of such petition. The petition allows the Board of Revision to dismiss the case based upon payment of the taxes, the need to preserve a lienholder's or interested parties' security interest, the execution of a payment plan under R.C. 323.31 or the complexity of the case.

This order also seeks to provide a very simple basis or underlying hint as to the factual basis of granting the petition to dismiss by allowing the Board to check off spaces indicating that the auditor's fair market value exceeds the tax imposition; the complexity of the case; and/or payment of the taxes.

IN THE BOARD OF REVISION
_____ **COUNTY, OHIO**

County Treasurer

[Certificate Holder]
Plaintiff

CASE NO. BR _____

vs.

_____, et al.

R.C. 323.71(A) through 323.72(C) Order
Denying Petition for Dismissal

Defendants

This matter came on to be heard upon the petition of:

- [___ the Certificate Holder];
- [___ an Owner(s)];
- [___ a lienholder(s)]; or
- [___ interested party of record]
- [___ Plaintiff Treasurer]

this ___ day of _____, 200___ to dismiss the case for one or more of the following reasons: 1.) all applicable taxes, interest, penalties and interest have been paid in full; 2.) the interest of a lienholder or interested party of record seeks to preserve the lienholder's or interested party's security interest of record; 3.) the Owner(s) has entered into a tax payment plan pursuant to R.C. 323.31; or 4.) Other _____.

Based on the available evidence, the Board denies the petition. The case is set for (___ further proceedings); (___ final hearing) on the ___ day of _____, 200___ at _____ a.m./p.m. at _____, _____ Ohio 44_____.

You are urged to attend the hearing. Failure to attend and defend your interests may result in an adverse judgment against you. This means that the parcel(s) listed above may be foreclosed upon and subject to a Sheriff's Sale at which time the property will be sold for the taxes or otherwise transferred directly to an eligible township, municipality, county or community development group. In such event, you will forever lose any right, title or interest in and to said parcel(s).

IT IS SO ORDERED

County Treasurer
Date: _____

County Auditor
Date: _____

County Commissioner
Date: _____

FORM NO. 18
323.72-73 Denial
Order Denying a Petition for a Dismissal

This form is designed to serve as a denial of an owner, lienholder or interested party's petitioned to dismiss a case. While the petition may seek a dismissal based upon alleged complexities, payment, excess equity in the property, etc., the Board is not required to grant such petitions. If the Board concludes that payment in full has not been made or that the case is not complex or that a lienholder is merely trying to delay the process, the Board may find that no unique or complex issues exist so as to warrant a dismissal of the case. In such instances, the Order articulates the reason for the petition but nevertheless denies the petitioner's petition. In view of the denial of the petition, the Board must either set the matter for further proceedings or final hearing. This form is designed to deny a petition for dismissal and provide notice of such further proceedings or the final hearing by listing the date, time and place of the hearing. As a practical matter, in cases where service has been made by publication, it is advisable that such hearings be merged into the final hearing published in the publication notice itself to avoid the costs of multiple publication for interim hearings. Again, these types of hearing would be rare and ideally should be merged and adjudicated as part of the final hearing.

Again, the Order contains the admonition that failure to attend such hearing would likely result in an adverse decision against any party not attending the hearing.

IN THE BOARD OF REVISION
_____ **COUNTY, OHIO**

County Treasurer
[Certificate Holder]
Plaintiff

CASE NO. _____

vs.

_____, et al. Finding As To Abandonment and Order
Defendants

This matter came on to be heard upon the petition or inquiry of:

- ___ Interested Party of Record
- ___ Owner of Record
- ___ Lien Holder
- ___ Certificate Holder
- ___ Prosecutor/Plaintiff
- ___ The Board Sua Sponte

as to whether the parcel(s) which are the subject of this proceeding constitute abandoned lands as defined in R.C. 323.65, the Board determines, based on the available evidence, that such parcel(s):

[___ do not constitute abandoned lands] ; [___ do constitute abandoned lands].

Based on the foregoing finding, the case is:

[___ continued for further proceedings];

[___ set for final hearing on the ___ day of _____,
200___, at _____ a.m./p.m. at _____, Ohio 44___];

[___ dismissed for lack of jurisdiction].

IT IS SO ORDERED:

County Treasurer
Date: _____

County Auditor
Date: _____

County Commissioner
Date: _____

FORM NO. 19
323.65(G)
FINDING OF ABANDONMENT

R.C. 323.65 defines abandonment. Abandonment is a function of a property being “unoccupied.” *See*: 323.65(G). A property is further rebuttably presumed to be unoccupied if there is a showing that at least two of the factors exist in 323.65(G)(2)(a), (b) or (c) [i.e., condemnation, no utility services, observation]. This is an important factual determination. Land that is not “abandoned land” will result in a potential dismissal of a case due to lack of jurisdiction. The rebuttable presumptions as to “unoccupied” property are not criteria, the failure of which will defeat a claim to abandonment. Rather they are factors in arriving at a rebuttable presumption. In other words, abandonment can be shown in any manner that the evidence will establish by a preponderance.

It is conceivable that the question of abandonment itself will be a subject of dispute from time to time. This form simply indicates which party has raised the question of abandonment (owner, lienholder, certificate holder, prosecutor, etc.), and further provides a check-off as to the Board’s finding. The Board will either check the space indicating its finding of abandonment in whereupon the case will be set for further proceedings or final hearing, or it will check off the space indicating the property does not constitute abandoned lands in which case the case should be dismissed for lack of jurisdiction. As a practical matter, in cases where service has been made by publication, it is advisable that such hearings be merged into the final hearing published in the publication notice itself to avoid the costs of multiple publication for interim hearings. Again, these types of hearing would be rare and ideally should be merged and adjudicated as part of the final hearing.

IN THE BOARD OF REVISION
_____ **COUNTY, OHIO**

County Treasurer
[Certificate Holder]
Plaintiff

CASE NO. _____

vs.

_____, et al. Findings as to Service of
Process And Order
Defendants

This matter came on to be heard on petition or inquiry of:

- ___ Interested Party of Record
- ___ Owner of Record
- ___ Lien Holder
- ___ Certificate Holder
- ___ Prosecutor
- ___ The Board Sua Sponte

as to whether service of process has been perfected one or more parties to this proceeding. The Board finds that:

- ___ service of process has been perfected on all parties of record;
- ___ service on one or more parties of record has not been perfected as of the date of this finding. Such parties include:

Based on the foregoing findings, the case is: [___ set for further proceedings[]; [___ set for final hearing on the ___ day of _____, 200___ at _____ a.m./p.m. at _____, Ohio 44___; [___ dismissed for failure/inability to prosecute due to lack of service of process, or insufficiency of service of process).

IT IS SO ORDERED:

County Treasurer

County Auditor

Date: _____

Date: _____

County Commissioner
Date: _____

FORM NO. 20
Finding as to Service of Process

There are those instances where the record will indicate that there is effective service of process on all parties required to attend the final hearing (some may be dismissed along the way for reasons other than failure of service). However, in those instances where an interested party contests the effectiveness of service of process, this form supplies the Board with an Order confirming or refuting the effectiveness of service of process. It initially provides a check-off indicating which party has raised the question (owner, lienholder, certificate holder, etc.) and provides a further check-off as to whether service of process has been perfected or not perfected. If service of process has not been perfected on all parties, the Order will so indicate and should state those parties on whom the Board has found a failure of service.

If the Board finds all parties have been properly served, the Order will contain a notice of further proceedings or the time, date and place of the final hearing. If the Board finds that one or more parties have not been properly served, the Board may either set the matter for further proceedings or dismiss the case for inability to prosecute. As a practical matter, in cases where service has been made by publication, it is advisable that such hearings be merged into the final hearing published in the publication notice itself to avoid the costs of multiple publication for interim hearings. Again, these types of hearing would be rare and ideally should be merged and adjudicated as part of the final hearing.

IN THE BOARD OF REVISION
_____ COUNTY, OHIO

County Treasurer
[Certificate Holder]
Plaintiff

CASE NO. _____

vs.

_____, et al.

Order to Avoid Sheriff's Sale

Defendants

This matter came on to be heard upon the Petition of:

- _____ the Certificate Holder as defined in R.C. 5721.30 et seq.,
- _____ the Treasurer, or
- _____ the Board, sua sponte,

pursuant to R.C. 323.71, for an Order dispensing with the Sheriff's Sale of the parcels which are the subject of this proceeding for the reasons that the taxes, interest, penalties, assessments, charges and costs ("Impositions") levied against such parcels exceed the fair market value of such parcels as determined by the Auditor and so rebuttably presumed. Based on the latest duplicate, the Auditor's combined valuation for the subject parcels is:

Auditor's Value:	\$ _____
Total Impositions	\$ _____
Board Finding of Actual Market Value:	\$ _____

Based on the available evidence, and in the event the Board orders the subject parcel(s) foreclosed, the Board hereby grants the petition to avoid the Sheriff's sale. Upon an adjudication of foreclosure, the Board shall direct the Clerk and/or the Sheriff as to the disposition or transfer of the subject parcel(s).

IT IS SO ORDERED:

County Treasurer

County Auditor

Date: _____

Date: _____

County Commissioner

Date: _____

FORM NO. 21
R.C. 323.71
Order to Avoid Sheriff's Sale

This order is designed to go with the petition by a certificate holder or Treasurer to avoid a Sheriff's sale because the tax lien certificate impositions or tax Impositions exceed the fair market value of the property. *See*: 323.71. This order is designed to grant this motion and it contains spaces to indicate the Board's factual findings as to the auditor's values, the total Impositions and the Board's actual finding of value. This will be a matter rarely the subject of a separate hearing, but to the extent taxpayers and interested parties can show otherwise, a hearing (whether merged into the final hearing or not) should be available. As a practical matter, in cases where service has been made by publication, it is advisable that such hearings be merged into the final hearing published in the publication notice itself to avoid the costs of multiple publication for interim hearings. Again, these types of hearing would be rare and ideally should be merged and adjudicated as part of the final hearing.

IN THE BOARD OF REVISION
_____ COUNTY, OHIO

County Treasurer
[Certificate Holder]
Plaintiff

CASE NO. _____

vs.

_____, et al. Order Denying Petition to Avoid Sheriff's Sale

Defendants

This matter came on to be heard upon the Petition of:

- ___ the Certificate Holder as defined in R.C. 5721.30,
- ___ the Treasurer: or
- ___ the Board, sua sponte,

pursuant to R.C. 323.71, for an Order dispensing with the Sheriff's Sale of the parcels which are the subject of this proceeding for the reasons that the taxes, interest, penalties, assessments, charges and costs ("Impositions") levied against such parcels exceed the fair market value of such parcels as determined by the Auditor and so rebuttably presumed. Based on the latest duplicate, the Auditor's combined valuation for the subject parcels is:

Auditor's Value:	\$ _____
Total Impositions	\$ _____
Board Finding of Actual Market Value:	\$ _____

Based on the available evidence, the Board hereby denies the petition to dispense with the Sheriff's sale. Upon an adjudication of foreclosure, the Board shall supply the Sheriff with an Order of Sale, or otherwise direct the Clerk and/or the Sheriff as to the final disposition or transfer of the subject parcel(s).

IT IS SO ORDERED:

County Treasurer

County Auditor

Date: _____

Date: _____

County Commissioner

Date: _____

FORM NO. 22
R.C. 323.71 and 323.75(G)
Order Denying Petition to Avoid Sale

This order is designed to go with the petition of a certificate holder or Treasurer to avoid sale because the tax Impositions exceed the fair market value of the land. *See*: 323.71. If a hearing is conducted on this point and the facts show that the tax Impositions do not exceed the fair market value of the property, the petition to avoid a Sheriff's sale must be denied. This form provides for such denial and provides spaces for the Board's factual finding as to the auditor's value, the total impositions and the Board's actual finding of value. This will be a matter rarely the subject of a separate hearing, but to the extent taxpayers and interested parties can show otherwise, a hearing (whether merged into the final hearing or not) should be available.

Of course, this ruling does not end the case. The case will most usually proceed to final hearing. As a practical matter, in cases where service has been made by publication, it is advisable that such hearings be merged into the final hearing published in the publication notice itself to avoid the costs of multiple publication for interim hearings. Again, these types of hearing would be rare and ideally should be merged and adjudicated as part of the final hearing.

In the event of a foreclosure order, the Sheriff's sale cannot be avoided as in cases where the tax Impositions exceed the fair market value of the property.

IN THE BOARD OF REVISION
_____ COUNTY, OHIO

County Treasurer
[Certificate Holder]
Plaintiff

CASE NO. _____

vs.

_____, et al.

Finding of Fact as to Value

Defendants

This matter came on to be heard upon the Petition of:

- ___ the Certificate Holder as defined in R.C. 5721.30;
- ___ the Treasurer;
- ___ Owner or interested party
- ___ the Board, sua sponte,

pursuant to R.C. 323.71, to determine the fair market value of the parcel(s) which are the subject of the proceeding and to determine whether such value exceeds the combined amount of taxes, interest, penalties, assessments, charges and costs (“Impositions”) levied against such parcels. Pursuant to R.C. 323.71(C) it is rebuttably presumed that the Auditor’s value is the fair market value of the Parcel(s). Based on the latest duplicate, the Auditor’s combined valuation for the subject parcels is:

Auditor’s Value:	\$ _____
Total Impositions	\$ _____

Based on the preponderance of available evidence, the Board finds that the fair market value of the parcel(s) is \$ _____.

IT IS SO ORDERED:

County Treasurer

County Auditor

Date: _____

Date: _____

County Commissioner

Date: _____

FORM NO. 23
R.C. 323.73(G)
Finding of Fact as to Value

The question of whether the auditor's fair market value exceeds the tax Impositions as prescribed in R.C. 323. 73(G) is a question that can be raised in the context of an interim proceeding by an owner or lienholder seeking dismissal or other protection; or it can be a subject of a petition by the prosecutor or a certificate holder to avoid a Sheriff's sale. In the event that this issue results in hearings involving independent appraisers or other independent testimony, it may be appropriate to actually have a separate finding of fact indicating the Board's determination on this point. This form is designed to deal with that issue and to do so by clearly stating the auditor's value, the total tax imposition and the Board's actual finding of value. This proceeding, and hence the use of the form, will probably not be routine. However, to the extent taxpayers and interested parties can show otherwise, a hearing (whether merged into the final hearing or not) should be available.

This form does not go further to set up additional hearings or to do anything other than to state the Board's finding of fact as to value. It may be that the Board may subsequently set up a hearing, or may request further proceedings or dismiss the case based in part on such finding. The point is, that every finding as to value does not necessarily imply the scheduling of another hearing at a particular time. There may be other interim proceedings that need to be resolved. As a practical matter, in cases where service has been made by publication, it is advisable that such hearings be merged into the final hearing published in the publication notice itself to avoid the costs of multiple publication for interim hearings. Again, these types of hearing would be rare and ideally should be merged and adjudicated as part of the final hearing.

IN THE BOARD OF REVISION
_____ COUNTY, OHIO

County Treasurer
[Certificate Holder]

Plaintiff

CASE NO. _____

vs.

_____, et al. **Motion for Continuance**
Defendants

Plaintiff [__ Treasurer;] [__ Certificate Holder];
____ Owner:
____ Other Interested Party of Record

hereby moves the Board for a continuance of the following hearing:

____ Final Hearing Dated _____;
____ Interim Hearing Dated _____;
____ Other Hearing Dated _____
[Describe below "Other Hearing"]

The reason for the continuance is stated below [attach brief statement if necessary]:

[ALL PAPERS FILED WITH THE BOARD MUST BE FILED WITH THE CLERK OF COURTS ON AT _____, OHIO 441__ ; AND INDIVIDUALLY COPIED AND SENT TO ALL PARTIES OF RECORD BEFORE THE BOARD WILL CONSIDER ANY PETITION. BY SIGNING THIS PETITION, YOU ATTEST THAT YOU HAVE SENT A COPY OF THIS PETITION TO ALL PARTIES OF RECORD].

Print Name: _____
Address: _____
City, State, ZIP: _____
Attorney for: _____
Phone: _____

Attest: All parties of record listed on the Complaint have been served by hand delivery, ordinary or certified mail.

Print Name: _____

FORM NO. 24
R.C. 323.66(B)(1)
Motion for a Continuance

R.C. 323 66(B)(1) provides that Boards of Revision may adopt rules for case management and scheduling. Many Boards of Revision have internal rules already as to when a motion to continue a case can be requested. Obviously it is not polite to the Board, the litigants and their attorneys for a party to request a continuance the day before a hearing. The Board can adopt internal rules on continuances and publish these rules in a flier or pamphlet and make them available for review by the public. Although motions for continuance will no doubt come in the form of letters and court pleadings in the style most favored by the applicant, it is preferable that the Board operate as much as possible with recognizable and consistent forms. In this regard, for clarity and simplicity sake, litigants should be urged to use the Board of Revision Continuance forms. As a practical matter, taxpayers of the Plaintiff will often determine at the hearing that a continuance is needed for a variety of reasons (case is not ready, dispute of weed cutting liens, hardship, need to sign up for a payment plan, etc), and the Board should be liberal in granting these motions. In publication cases, even though it may be apparent to the Plaintiff or the Board itself that a case is not ready to proceed, it is advisable to go forward with the hearing just the same even if just to continue the case, and thereby establish that the published parties failed to appear as required in the publication notice. By not so appearing, those parties will be in default of the hearing thereby eliminating the need to continuously serve (by publication or otherwise) parties that cannot be found and that do not appear at noticed hearings. This is the same kind of treatment provided in Civil Rule 5(A) where it states clearly: "Service is not required on parties in default for failure to appear..."

This form provides a simple check-off system to indicate that one of the parties seeks a continuance. It informs the Board when the particular hearing is scheduled and the reason for the requested continuance. Because this is a motion filed by a litigant, it includes the attestation and admonition that all papers served by the litigant must be filed on all other parties of record, along with the attestation of the party filing the motion that he has indeed served such motion on all parties.

The remaining parties to a case may, as a practical matter, serve any opposition papers to a motion to continue. No form is provided since an opposition "brief" can be for any number of reasons and therefore can take many and sundry forms.

IN THE BOARD OF REVISION
_____ COUNTY, OHIO

_____ County Treasurer
[Certificate Holder]
Plaintiff

CASE NO. _____

vs.

_____, et al.
Defendants

Order of Continuance

_____ On the Board's own motion for a continuance of the hearing described below:

[OR]

_____ Plaintiff [___ Treasurer] [___ Certificate Holder];
_____ Owner; or
_____ Other Interested Party of Record

has moved/requested the Board for a continuance of the captioned matter:

The Board of Revision hereby:

_____ Orders that the matter be and is hereby continued by the Board sua sponte;
_____ Grants Petitioner's motion/request for a continuance.

The case is set for:

___ further proceedings on a date to be determined by the Board;
___ final hearing on the ___ day of _____, 200___, at _____ a.m./p.m.

The hearing shall be at _____, Ohio 441___.

You are urged to attend the hearing. Failure to attend and defend your interests may result in an adverse judgment against you. This means that the parcel(s) listed above may be foreclosed upon and subject to a Sheriff's Sale or transferred directly to a municipality or Land Reutilization Corporation. Further you may lose all right of redemption to the parcel pursuant to the Alternative right of redemption under R.C. 323.78. In such event, you will forever lose any right, title or interest in and to said parcel(s).

IT IS SO ORDERED:

County Treasurer
Date: _____

County Auditor
Date: _____

County Commissioner
Date: _____

FORM NO. 25
R.C. 323.66(B)
Order of Continuance

In accordance with the Board's limited rule making authority (*See*: e.g. 323.66(B)), this form is designed to be used with the Motion for Continuance. It is a simple order which identifies who asked for the Continuance, and that the Continuance is granted. Blanks are to be filled in to state the new time, date and place of the rescheduled hearing. As to all such notices of hearing dates, the Order contains the admonition to all parties of record that failure to attend the hearing will result in an adverse judgment. Because R.C. 323.78 authorizing application of the Alternative Right of Redemption, states that all final hearings should give notice of that fact, a final hearing that is continued results in a new "final hearing." Therefore an order of continuance should always include the notice of the application of the Alternative Right of Redemption.

Denial of Continuance

IN THE BOARD OF REVISION
_____ COUNTY, OHIO

County Treasurer
[Certificate Holder]
Plaintiff

CASE NO. _____

vs.

_____, et al.
Defendants

Order of Continuance Denial

Plaintiff [**Treasurer**] [**Certificate Holder**]

Owner; or

Other Interested Party of Record has moved the Board for a continuance of the captioned matter:

The Board of Revision hereby denies the Petitioner's motion for a continuance of the aforesaid hearing. The case remains set for:

further proceedings to be determined by the Board;

final hearing) on the _____ day of _____, 200____, at _____ am./p.m. at _____ Ohio 441____

You are urged to attend the hearing. Failure to attend and defend your interests may result in an adverse judgment against you. This means that the parcel(s) listed above may be foreclosed upon and subject to a Sheriff's Sale or transferred directly to a municipality or Land Reutilization Corporation. Further you may lose all right of redemption to the parcel pursuant to the Alternative right of redemption under R.C. 323.78. In such event, you will forever lose any right, title or interest in and to said parcel(s).

IT IS SO ORDERED:

County Treasurer
Date: _____

County Auditor
Date: _____

County Commissioner
Date: _____

FORM NO. 26
R.C. 323.66(B)
Denial of Continuance

In accordance with the Board's limited rule making authority (*See*: e.g. 323.66(B)), this form is designed to be used with the Motion for Continuance form. This form states the party requesting the continuance, and the Board's denial of the Motion for Continuance. In the event the Board denies the hearing, the Board should at least reiterate the date of the hearing as originally scheduled so as to confirm that, indeed, the case remains as originally scheduled. Because R.C. 323.78 authorizing application of the Alternative Right of Redemption, states that all final hearings should give notice of that fact, a final hearing that is continued results in a new "final hearing." Therefore an order of continuance should always include the notice of the application of the Alternative Right of Redemption.

As with other orders and notices providing for scheduled hearings, this Order includes the admonition that failure to attend the scheduled hearing may result in a default judgment.

IN THE BOARD OF REVISION/COURT OF COMMON PLEAS
_____ COUNTY, OHIO

_____, as Treasurer of
_____, Ohio,
Plaintiff,

CASE NO. _____

P. P. No. _____

-vs-

_____, et al.,

ADJUDICATION OF
FORECLOSURE
(Sheriff Sale)

This matter was heard on _____, 200__ by the _____ County Board of Revision ("BOR")/Court of Common Pleas ("CCP") upon the Complaint of Plaintiff pursuant to R.C. 323.25, 323.65 through 323.79 and/or 5721.18, for unpaid delinquent taxes, assessments, penalties, interest and/or costs ("Impositions") against abandoned and/or vacant land which is the subject of this case, and the evidence. The BOR/CCP finds that all necessary parties to this action having an interest in permanent parcel no. _____ which is further described in Exhibit A attached hereto and incorporated herein, have been duly served with summons according to law and are properly before the BOR>CCP. The BOR/CCP further finds that the parcel which is the subject of this proceeding constitutes abandoned land and/or vacant land as defined in R.C. 323.65.

The BOR/CCP further finds that there is due on the aforesaid parcel:

1. All Impositions which are due and unpaid, as of the date the County Auditor compiles a delinquent lands tax list or delinquent vacant lands tax list, pursuant to 5721.011;
2. All Impositions payable subsequent to the date the County Auditor compiles a delinquent lands tax list or delinquent vacant lands tax list, and prior to the entry of the Confirmation of Sale or conveyance; and,
3. All costs incurred in this proceeding, including the cost of the Preliminary and Final Judicial Reports and, all the fees and costs of the Sheriff and Clerk all of which the BOR/CCP finds are necessary costs in this proceeding.

All of such amounts will be ascertained at the time of the sale, and the total thereof shall constitute both the total amount of the BOR/CCP Findings and the "Minimum Bid" for said parcel as provided by law.

The BOR/CCP finds that for all such Impositions the Plaintiff has a good and valid first lien on said parcel. The BOR/CCP further finds that the proceedings have complied with R.C 323.65-323.79. The BOR/CCP further finds that a county, school district, land reutilization corporation, township, municipality or community development group ___ has/ ___ has not provided the BOR/CCP with a statement or other indicia of interest, (or authority in the case of a community development group) in acquiring the parcel in the event no bidder comes forth at the Sheriff's sale of the within parcel; and further if no such statement or indicia has been provided to BOR/CCP, then the parcel shall be sold at

Sheriff's sale according to law; but if no bidder is forthcoming at the first sale, and such statement of indicia has been provided to the BOR, then the parcel shall be directly transferred to such county, school district, land reutilization corporation, township, municipality or community development organization as may be prescribed in any order of sale of this BOR/CCP.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the within action may proceed according to R.C. 323.65-323.79.

It is further ORDERED, ADJUDGED AND DECREED pursuant to R.C. 323.76, that unless:

(a) prior to the filing of the Confirmation of Sale or transfer with the Clerk of Court, there is tendered to the County Treasurer an amount sufficient to pay the full amount of all taxes, assessments, penalties, interest and other charges, if any, found to be due and unpaid on said parcel, together with all costs incurred in this proceeding;

or,

(b) prior to the time said parcel is first offered for sale, any person entitled to redeem said parcel does in fact so redeem said parcel with the County Treasurer according to law for the payment of the taxes assessments, penalties, interest and other charges, if any, found herein to be due and unpaid on said parcel, together with all costs incurred in this proceeding;

there shall be no further equity of redemption; that said lien and said equity of redemption in and to said parcel shall be foreclosed; that an Order of Sale or transfer shall be issued to the Sheriff directing him, without appraisal, to advertise according to R.C. 323.73(A) and separately sell said parcel at public sale in the manner provided in such Order of Sale by law for the sale of real property on execution and according to R.C. Sections 323.73, 5721.19, and/or 5722.03 and any applicable Rules of the BOR/CCP, for not less than "MINIMUM BID" as prescribed in R.C. 323.73 (B) and, that the Sheriff make due return to this BOR for further proceedings under law; or, alternatively in the event of no bidder after exposing the parcel to public sale there be no bidder, then the parcel shall be sold to a municipality, township, county land reutilization corporation, county, school district or community development group as ordered in the Order of Sale or Transfer;

It is further ORDERED that such taxes and special assessments, or installments of special assessments, and any other assessments, which are not yet legally due and payable according to law up to the time of the Confirmation of Sale or transfer, shall, unless otherwise provided by law, not be abated or removed from the tax duplicates and records in the Offices of the Auditor and Treasurer of _____ County, Ohio, but shall be and remain a first and best lien on said parcel, and that the purchaser shall take said parcel subject to all such taxes and assessments.

It is further ORDERED that the BOR/CCP shall reject the sale of abandoned land/vacant land to any person who is delinquent in the payment of property taxes on any parcel in the County, or to a member of any of the following classes of parties connected to that person:

1. A member of that person's immediate family;
2. Any other person with a power of attorney appointed by that person;
3. A sole proprietorship owned by that person or member of that person's immediate family;

**IN THE BOARD OF REVISION/COURT OF COMMON PLEAS
_____ COUNTY, OHIO**

_____, as Treasurer of
_____ County, Ohio,

Plaintiff,

CASE NO. BR/CCP _____

P. P. No. _____

-vs-

_____, et al.,

**ADJUDICATION OF
FORECLOSURE**
(Direct Transfer)

This matter was heard on _____, 200__ by the _____ County Board of Revision (“BOR”)/Court of Common Pleas (“CCP”) upon the Complaint of Plaintiff for unpaid delinquent taxes, assessments, penalties, interest and/or costs (“Impositions”) against abandoned and/or vacant land which is the subject of this case, and the evidence. The BOR/CCP finds that all necessary parties to this action having an interest in permanent parcel no. _____ which is further described in Exhibit A attached hereto and incorporated herein, have been duly served with summons according to law and are properly before the BOR. The BOR/CCP further finds that the parcel which is the subject of this proceeding constitutes abandoned land and/or vacant land as defined in R.C. 323.65.

The BOR further finds that there is due on the aforesaid parcel:

1. All Impositions which are due and unpaid, as of the date the County Auditor compiles a delinquent lands tax list or delinquent vacant lands tax list, pursuant to 5721.011;
2. All Impositions payable subsequent to the date the County Auditor compiles a delinquent lands tax list or delinquent vacant lands tax list, and prior to the entry of the Confirmation of Sale; and,
3. All costs incurred in this proceeding, including the cost of the Preliminary and Final Judicial Reports and, all the fees and costs of the Sheriff and Clerk all of which the BOR/CCP finds are necessary costs in this proceeding.

The BOR/CCP finds that for all such Impositions the Plaintiff has a good and valid first lien on said parcel and that the same are hereby foreclosed due to non-payment thereof. The BOR/CCP further finds that the proceedings have complied with R.C 323.65-323.79.

_____ The BOR/CCP finds that the Impositions as defined in R.C. 323.65 (F) exceed the presumed fair market value of the parcel as currently shown by the latest valuation by the Auditor and that such presumption of fair market value has not been rebutted by a good faith

appraisal as prescribed in R.C. 323.71; therefore the BOR/CCP finds that the subject parcel qualifies to be transferred without appraisal or public auction to a certificate holder under R.C. 323.69 or directly to a community development organization, municipal corporation, county land reutilization corporation, county or township as provided in R.C. 323.76(G) and 323.74 as authorized by any Order of Transfer of this BOR/CCP pursuant to this Adjudication of Foreclosure.

or

_____ The BOR/CCP finds the plaintiff has petitioned the BOR/CCP to apply the alternative right of redemption to this case as prescribed in R.C. Sections 323.65(K) and 323.78; the BOR/CCP finds that the subject parcel therefore qualifies to be transferred without appraisal or public auction to a certificate holder under R.C. 323.69 or to a community development organization, municipal corporation, school district, land reutilization corporation, county or township as provided in R.C. 323.76(G), 323.74 and/or 323.65(K) and 323.78 as directed by any Order of Transfer of this BOR/CCP pursuant to this Adjudication of Foreclosure; and upon hearing and due consideration, the BOR/CCP hereby grants said petition to invoke the alternative right of redemption under R.C. 323.65(K) and 323.78, and the same shall apply in this case.

The BOR further finds that a county, township, municipality school district, land reutilization corporation or community development group ___ has/ ___ has not provided the BOR/CCP with a statement or other indicia of interest, (or authority in the case of a community development group) in acquiring the parcel such that the parcel may be so directly transferred to such county, township, municipality, school district, land reutilization corporation or community development organization as may be prescribed in any order of transfer of this BOR/CCP.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the within action shall proceed according to R.C. 323.65-323.79.

It is further ORDERED, ADJUDGED AND DECREED pursuant to R.C. 323.65-79, that unless:

_____ (a) prior to the journalization of both this adjudication of foreclosure of the land and the BOR's/CCP's order to the Sheriff to transfer by deed the land directly to a certificate holder or to any municipality, township county, school district, land reutilization corporation or community development organization (as prescribed in R.C. 323.65-323.79), any person entitled to redeem said parcel does within said time in fact so redeem said parcel with the County Treasurer according to law for the payment of the taxes assessments, penalties, interest and other charges, if any, found herein to be due and unpaid on said parcel, together with all costs incurred in this proceeding;

or

_____ (b) prior to the expiration of the forty-five (45) day alternative right of redemption as prescribed in Sections 323.65(K) and 323.78 of the Revised Code, any person entitled

to redeem said parcel does within said time in fact so redeem said parcel with the County Treasurer according to law for the payment of taxes, assessments, penalties, interest and other charges, if any, found herein to be due and unpaid on said parcel, together with all costs incurred on this proceeding;

there shall be no further equity of redemption; that said lien and said equity of redemption in and to said parcel shall be foreclosed; in the case of the expiration of the forty-five (45) day alternative right of redemption, no further action of confirmation of this BOR/CCP shall be required and the transfer to any Transferee indicated in the BOR's/CCP's Order to Transfer shall be considered automatically confirmed and the equity of redemption forever extinguished and the title to said parcel shall be incontestable in the transferee, free and clear of all liens and encumbrances, except such easements and covenants of record running with the land as were prior to the time the taxes or assessments, for the non-payment of which said parcel is sold at foreclosure, became due and payable.

It is further ORDERED that such taxes and special assessments, or installments of special assessments, and any other assessments, which are not yet legally due and payable according to law up to the time of the Confirmation of conveyance or expiration of the alternative right of redemption under R.C. Sections 323.65(K) and 323.78, shall, unless otherwise provided by law, not be abated or removed from the tax duplicates and records in the Offices of the Auditor and Treasurer of _____ County, Ohio, but shall be and remain a first and best lien on said parcel, and that the transferee of the parcel shall take said parcel subject to all such taxes and assessments unless otherwise provided in R.C. 323.65-323.79 or as prescribed for electing subdivisions in R.C. 5722.01 et seq. for the abatement of taxes of certain nonproductive lands as defined therein.

The alternative right of redemption under 323.65(K) and 323.78 ___ does/___does not apply in this case.

The transferee, county, municipality, school district, land reutilization corporation, township or community development organization shall pay all costs as may be payable by law or otherwise negotiated between the Treasurer and said transferee as prescribed in R.C. 323.75.

It is further ORDERED that unless said parcel is previously redeemed as prescribed hereinabove, upon the journalization of this Order and the Order to Transfer confirming the transfer, the title to said parcel shall be incontestable in the transferee, free and clear of all liens and encumbrances, except such easements and covenants of record running with the land as were created prior to the time the taxes or assessments, for the nonpayment of which said parcel is sold at foreclosure, became due and payable, and except for Federal Tax Liens. Alternatively, if the plaintiff has petitioned the BOR/CCP to invoke the alternative right of redemption pursuant to R.C. Sections 323.65(K) and 323.78 then, unless said parcel is redeemed prior to the expiration of such period, transfer of title in the manner, and to the party indicated in the Order to Transfer, shall be deemed confirmed consistent therewith, and the title to said parcel shall be incontestable in the transferee free and clear of all liens and encumbrances, except such easements and covenants of record running with the land as were created prior to the time the taxes and assessments for the non-payment of which said parcel is conveyed at foreclosure, became due and payable, and except for Federal Tax liens.

It is further ORDERED that, except as otherwise hereinabove provided, any defendant parties owning or claiming any right, title or interest in (including dower rights), or lien upon said parcel shall be and they are hereby forever barred from asserting any right, title or interest in said parcel.

IT IS SO ORDERED.

_____)
BOARD OF REVISION)
Date: _____)
_____)
BOARD OF REVISION)
Date: _____)
_____)
BOARD OF REVISION)
Date: _____)

BOARD OF REVISION
Date: _____

IT IS SO ORDERS

JUDGE
Date: _____

FORM NO. 27
R.C. 323.70 and 323.72(D)
Adjudication of Foreclosure: Sale and Direct Transfer

R.C. 323.70 provides that a final hearing must take place not sooner than 30 days, and no later than 6 months after service of process has been perfected. R.C. 323.72(D) provides that the Board is specifically authorized to proceed to adjudicate whether to foreclose on a parcel(s). This form indicates that a matter came on for hearing for the various parcels listed in the final judicial report (should be attached as an Exhibit A) and that all parties have been served. The Order reiterates the finding that the lands in question are deemed to be abandoned lands as provided in R.C. 323.65 and that the parcels stand tax delinquent. The Order includes the finding that the plaintiff in the case (treasurer or certificate holder) have a good and first lien against the parcels in the amount established in another exhibit which should be attached as Exhibit B. The Order also contains a statement that owners of record (or other parties) which have not appeared at the final hearing, are in default and therefore judgment of foreclosure is rendered against them on default.

There is a statement of what constitutes the “minimum bid” in the case of a sale. This amount is the “Impositions” under the statute (once finally computed). Also, the decree affirms the termination of the equity of redemption and the order of payments upon a sale, upon a transfer to a municipality, Land Reutilization Corporation or certificate holder, either because the Impositions exceed the fair Market value of the property or because of the expiration of the 45-day Alternative Right of Redemption.

The last paragraph of the Order constitutes the actual judgment in favor of plaintiff for the amounts in Exhibit B (along with the order of distribution of proceeds), and directs the Clerk and Sheriff to determine the remaining costs for disposing of the property as provided by law.

The one adjudication decree is designed for situations in which:1.) the taxes do not exceed the fair market value as presumed by the auditor, and the Alternative Right of Redemption has not been invoked; or 2.) regardless of the auditor’s fair market value, no municipality has requested the property thereby requiring a decree which orders that the property be subjected to a sheriff’s sale. The other adjudication is designed for situations in which: A.) the Impositions either exceed the fair market value of the property; or B.) where the Alternative Right of Redemption has been invoked (regardless of the property value), and a municipality or Land Reutilization Corporation has requested to acquire the land. This decree authorizes the sheriff to execute and directly transfer the parcel to said municipality or Land Reutilization Corporation without appraisal or auction, and thus it is a “direct transfer.”

Order of Sale/Transfer

IN THE BOARD OF REVISION/COURT OF COMMON PLEAS
_____ **COUNTY, OHIO**

_____ County Treasurer)	
Plaintiff	)	CASE NO. BR/CCP _____
vs.	)	Parcel No. _____
)	
	)	<u>Order to Sheriff:</u>
_____, et al.	)	<u>Order of:</u>
Defendants)	
	)	_____ Direct Transfer
	)	_____ R.C. 323.73(G)
	)	_____ R.C. 323.65(F); 323.78
)	
	)	_____ Sale or Transfer
	)	for Want of Bidder
)	
	)	_____ Sale

Whereas the Board of Revision (“BOR”)/Court of Common Pleas (“CCP”) on the ___ day of _____, 200__, made certain findings wherein a judgment of foreclosure was entered in favor of plaintiff, said judgment being attached and made a part hereof as Exhibit A (the “Decree”); that said findings and Decree included that the parcel(s) of land described therein were delinquent in taxes, assessments and penalties; that for said delinquency, Plaintiff has a good and first lien against said parcel(s) ordered foreclosed; and;

[Check only one box]

 (No Sale)

1.) _____ that _____ (“Transferee”) has petitioned to acquire said parcel pursuant to R.C. 323.65 through 323.79 whereby the Sheriff is hereby ordered, without appraisal or public auction to execute and to transfer directly, unless previously redeemed according to law, the parcel to said Transferee by Sheriff’s Deed. This order is based upon the previous BOR/CCP finding that:

a.) _____ the Impositions as defined in R.C. 323.65 exceed the fair market value of said parcel(s) as prescribed in R.C. 323.73(G) thereby authorizing the Sheriff forthwith, to transfer directly without appraisal or public auction by Sheriff’s deed the parcel to said Transferee; and further, pursuant to R.C. 323.73(G), the filing of this Order with the Clerk shall terminate any statutory or common law right of redemption;

or,

b.) _____ the BOR/CCP has ordered that the alternative redemption period applies to this parcel pursuant to R.C. 323.65(K) and 323.78 thereby authorizing the Sheriff, and he is hereby so ordered, to transfer directly without

appraisal or public auction by Sheriff's deed the parcel to Transferee upon the expiration of forty-five (45) days from the journalization of the Decree; and further, pursuant to R.C. 323.65(K) and 323.78, upon the expiration of forty-five (45) days from the journalization of the Decree, any statutory or common law right of redemption shall be forever terminated and extinguished as against all parties.

The Sheriff need not prepare a deed(s), but is hereby authorized to execute and delivery the attached Exhibit B Sheriff's Deed.

The Clerk is hereby commanded to file and forthwith deliver to the Sheriff this Order; and the Sheriff is hereby commanded to proceed to carry said Order and Decree into execution, and to dispose of said parcel(s) by direct delivery of the deed to the Transferee after first confirming payment or settlement of all applicable costs in accordance with R.C. 323.74 and 323.75.

Writ of Possession against all party defendants ordered issued to the transferee of the parcel(s).

 (Sale/Alternative No-Bidder Transferee)

2.) _____ therefor, the Sheriff is ordered, without appraisal to advertise and sell said parcel(s) at public sale as provided by law for the sale of real property on execution according to R.C. 323.65 to 323.79, 5721.19 and 5722.03, where applicable, for not less than the total amount of the findings of the BOR/CCP, which shall constitute the "Minimum Bid," and make due return to the Board for further proceedings under law. In case no bid is made, the Sheriff is ordered pursuant to R.C. 323.74(C), without appraisal or further public auction to execute and deliver forthwith the Sheriff's deed to the parcel directly to the Transferee. Upon such sale at public sale, or transfer of the parcel directly to a Transferee (in the case of no bidder after exposure to public sale), the Sheriff is directed to utilize the deed form attached hereto and made a part hereof as Exhibit B.

The Clerk is hereby commanded to file and forthwith deliver to the Sheriff this Order; and the Sheriff is hereby commanded to proceed to carry said Order and Decree into execution and that the Sheriff dispose of said parcel as provided by law for either the sale, or conveyance without sale (pursuant to R.C. 323.74) of real property on execution according to R.C. 323.65 to 323.79 or R.C. 5721.19 and 5722.03, as the case may be; and that you apply the proceeds of any such sale for said parcel(s) according to the Decree of the BOR/CCP after first confirming payment or settlement of all applicable costs in accordance with R.C. 323.74 and 323.75.

Upon the filing of an Order of Confirmation of Sale, Transfer or Forfeiture after exposure of the parcel to public sale, the filing of such Order with the Clerk upon journalization shall forever terminate and extinguish any statutory or common law right of redemption.

Writ of Possession against all party defendants ordered issued to the transferee of the parcel(s).

 (Sale)

3.) _____ therefor, the Sheriff is ordered, without appraisal to advertise and sell said parcel(s) at public sale as provided by law for the sale of real property on execution according to R.C. 323.65 to 323.79, 5721.19 and 5722.03,

where applicable, for not less than the total amount of the findings of the Board of Revision, which shall constitute the "Minimum Bid," and make due return to the BOR/CCP for further proceedings under law.

The Clerk is hereby commanded to file and forthwith deliver to the Sheriff this Order; and the Sheriff is hereby commanded to proceed to carry said Order and Decree into execution, and that the Sheriff dispose of said parcel as provided by law for either the sale, or conveyance without sale (pursuant to R.C. 323.74) of real property on execution according to R.C. 323.65 to 323.79 or R.C. 5721.19 and 5722.03, as the case may be; and that you apply the proceeds of any such sale for said parcel(s) according to the Decree of the BOR/CCP after first confirming payment or settlement of all applicable costs in accordance with R.C. 323.74 and 323.75.

Upon the filing of an Order of Confirmation of Sale, Transfer or Forfeiture after exposure of the parcel to public sale, the filing of such Order with the Clerk upon journalization shall, except as may otherwise be provided in R.C. 5723.01 et seq., forever terminate and extinguish any statutory or common law right of redemption.

Writ of Possession against all party defendants ordered issued to the transferee of the parcel(s).

IT IS SO ORDERED:

OR

IT IS SO ORDERED

County Treasurer
Date: _____

JUDGE
Date: _____

County Auditor
Date: _____

County Commissioner
Date: _____

FORM NO. 28
R.C. 323.66(B); 32374(C)(D); 323.77(B); 323.73(G); 323.78
Combined Order of Sale and Transfer

Because there are several potential dispositions in the BOR, rather than have a multiplicity of Orders or Sale/Transfer that can be confusing, this COMBINED order allows the Clerk and Sheriff consciously to look at the Order see if the BOR ordered: 1.) a Sheriff Sale; 2.) a Sheriff Sale but with a transfer to a municipality or Land Reutilization Corporation if No Bidders; 3.) a Direct Transfer to a municipality or Land Reutilization Corporation if the Impositions exceed the fair market value; or 4.) a Direct Transfer a municipality or Land Reutilization Corporation pursuant to the Alternative Right of Redemption. The Alternative Right of redemption simply provides that the extinguishment of the right of redemption is not a function of a confirmed Sheriff sale, i.e., a “sale” which is later “confirmed.” Rather the right is extinguished as a function of **time**. After 45 days from the journalization of the decree, the redemption right is extinguished with further act of the BOR or court—it is self executing.

Sale

Under judicial foreclosures, once a Court issues an adjudication of foreclosure against a property for non-payment of taxes, the Clerk typically prepares an Order of Sale with a description of the property in question ordering the Sheriff to advertise the property for sale, and to schedule a sale at public auction.

The Order of Sale under the House Bill 294 statute provides that the Board of Revision may prepare and issue an Order of Sale directly from the Board itself to the Sheriff to sell the property as provided by law. However, the Order must be filed with the Clerk. Hence, rather than the Clerk preparing the Order of Sale and delivering it the Sheriff, the Board may prepare said Order of Sale, have it filed with the Clerk with instructions to the Clerk to simply deliver the Board’s pre-prepared Order to the Sheriff to advertise and sell the property.

In other words, under H.B. 294, the Clerk no longer needs to prepare Order’s of Sale. Clerks will simply file the Board’s order and deliver the Order of Sale to the Sheriff.

The Order contains the parcel identification, the date of the foreclosure adjudication, that the final hearing occurred and that all the jurisdictional facts (e.g. abandonment, service of process, etc) are satisfied, and that the tax impositions remain unpaid. The Sheriff is ordered to sell the property in accordance with law, and the Clerk is commanded to deliver the Order of Sale to the Sheriff.

Exposure to Sale With No Bidder: Alternative Order to Transfer to Municipality or Land Reutilization Corporation

This part of the Order envisions the possibility that a property may go to sale, yet no bidder bids on the property. Under normal judicial foreclosure sales, the property must be offered for sale a second time. Typically the original advertisement of sale by the Sheriff will contain the second auction date. If no one bids at the second auction, the land reverts to the State and is thereafter subject to an Auditor’s sale which provides for

different minimum bidding requirements. Under existing land bank statutes, the only way a land bank can acquire such a parcel is if the parcel undergoes two such sales at which no bidder bids. Only then is the Sheriff authorized to deed the property to a requesting municipal land bank.

The House Bill 294 statute (R.C. 323.77(B)), provides that if a sale occurs without any bidders, and if a land bank has stated its interest in receiving the particular property directly, then the municipality's expression of interest (served on the Board no later than 60 days following the original unsuccessful auction) in acquiring the property is deemed to be the winning bid in the first sale. In such circumstances, this Order of Sale contains an alternate instruction ordering the Sheriff to simply transmit a deed to a municipality without appraisal or further auction. This avoids the need for a second sale.

This provision simply addresses a small delay in existing land bank practice as prescribed in R.C. 5722.01 et seq. Under the existing land bank statute, a property can end up in a land bank if it is: 1.) advertised for sale; 2.) no one bids; 3.) proceeds to a second sale; 4.) where no one bids and then finally 5.) gets transferred to a city. In cases where the tax impositions exceed the fair market value of the land, this second scheduling of a Sheriff's sale is particularly perfunctory and unnecessary. Hence, this Order of Sale simply allows an abandoned property get into a land bank a little bit quicker.

In cases where a municipality has no land bank and is therefore not an "electing subdivision" as defined in R.C. 5722.01, a municipality or community development group can still acquire the property after the unsuccessful first sale by submitting a request with the Board seeking to be the recipient of the land. Such request must be filed with the Board no later than 60 days after the first sale.

Order of Direct Transfer to Land Bank

This Combined Order is designed to be used with those situations in which the Board has ordered the property transferred to a land bank without the need for Sheriff's sale. Again, such circumstances are appropriate under R.C.323.73(G) where the tax impositions exceed the fair market value of the property or upon the expiration of the Alternative Right of Redemption under R.C. 323.78. In those instances, the state will have the first and best lien on the property and there is no need to have a Sheriff's sale where a municipality has expressed its interest, in advance, in acquiring the property. Hence, once there is a finding of foreclosure against the property and the Board has determined that a Sheriff's sale is unnecessary, rather than issuing a "Order of Sale," the Board will issue an order to the Sheriff to simply execute a deed to the municipality. This deed, depending upon individual county practice, can be prepared by the Sheriff as it typically does or it may actually be prepared by the Board of Revision and included as an exhibit on the Order to Transfer. In such instances, the Sheriff need not prepare the deed, but is simply required to sign the deed and deliver it according to the Board's order. Board prepared Orders of Sale/Transfer and Deeds will tend to speed things up. If a Clerk and the Sheriff do not have to spend time preparing Orders of Sale and Deeds, but merely have the ministerial task of signing the Board's pre-approved, pre-prepared forms, this will save time. It will be less cumbersome for the Clerk and Sheriff and better serve the public policy of the statute in getting the property into productive hands in a quick and efficient manner.

Order of Transfer to Certificate Holder:

IN THE BOARD OF REVISION
_____ COUNTY, OHIO

County Treasurer
[Or Certificate Holder]
Plaintiff

CASE NO. _____

vs.

Parcel No. _____

_____, et al.

**Order to Sheriff to Transfer to
Certificate Holder With Delivery
Instructions to Clerk**

Defendants

Whereas the Board of Revision on the ___ day of _____, 200__, did make certain findings wherein a judgment of foreclosure was entered in favor of the plaintiff, being a Certificate Holder as defined in R.C. 5721.30 et seq, said judgment being attached hereto and made a part hereof as Exhibit A; that said findings and judgment of foreclosure included that the parcel(s) of land described therein were delinquent in taxes, assessments and penalties pursuant to the Certificate Holder's certificate; that for said delinquency, Plaintiff has a good and first lien against said parcel(s) ordered foreclosed; therefor, the Sheriff is ordered, without appraisal or public auction to execute forthwith and to transfer the parcel to the Plaintiff by Sheriff's Deed on the form attached hereto as Exhibit B and made a part hereof. Such order to transfer is based upon the finding by the Board of Revision that the Impositions as defined in R.C. 323.65 exceed the fair market value of said parcel(s) as prescribed in R.C. 323.73(G) thereby authorizing the Sheriff to deliver the attached deed to a political subdivision, community development organization or certificate holder without appraisal or public auction. The Sheriff need not prepare a deed(s), but is hereby authorized to execute and delivery the attached Exhibit B Sheriff's Deed.

The Clerk is hereby commanded to file and forthwith deliver to the Sheriff this Order to Sheriff to Transfer to Certificate Holder; and the Sheriff is hereby commanded to proceed to carry said Order, Judgment and Board of Revision Decree into execution, and that you dispose of said parcel(s) by direct delivery to the Certificate Holder after first confirming payment of all applicable costs by the Plaintiff in accordance with R.C. 323.74 and 323.75; and, that you report your proceedings herein to the Board of Revision and County Prosecutor within thirty (30) days from the date hereof and bring this Order with you. Pursuant to R.C. 323.73(G), the filing of this order with clerk shall terminate any statutory or common law right of redemption. Writ of Possession against all party defendants ordered issued to the plaintiff certificate holder.

IT IS SO ORDERED:

_____ Date: _____ Date: _____

County Treasurer

County Auditor

County Commissioner

Date: _____

FORM. NO. 29
R.C. 323.73(G)

Order to Sheriff to Transfer to Certificate Holder with Delivery Instructions

This Order is designed to be used with those situations in which the Board has ordered the property transferred directly to a certificate holder without the need for Sheriff's sale. Again, such circumstances are appropriate under R.C.323.73(G) where the tax impositions exceed the fair market value of the property. In those instances, the certificate holder will have the first and best lien on the property and there is no need to have a Sheriff's sale. Hence, once there is a finding of foreclosure against the property and the Board has determined that a Sheriff's sale is unnecessary, rather than issuing a "Order of Sale," the Board will issue an order to the Sheriff to simply execute a deed to the certificate holder. This deed, depending upon individual county practice, can be prepared by the Sheriff as it typically does or it may actually be prepared by the Board of Revision and included as an exhibit on the Order to Transfer. In such instances, the Sheriff need not prepare the deed, but is simply required to sign the deed and deliver it according to the Board's order. Board prepared Orders of Sale/Transfer and Deeds will tend to speed things up. If a Clerk and the a Sheriff do not have to spend time preparing Orders of Sale and Deeds, but merely have the ministerial task of signing the Board's pre-approved, pre-prepared forms, this will save time. It will be less cumbersome for the Clerk and Sheriff and better serve the public policy of the statute in getting the property into productive hands in a quick and efficient manner.

IN THE BOARD OF REVISION
_____ COUNTY, OHIO

County Treasurer
[
Plaintiff

CASE NO. _____
Parcel NO. _____

vs.

**Order to Sheriff to Transfer to
Community Development Group
With Delivery Instructions to Clerk**

_____, et al.
Defendants

Whereas the Board of Revision on the ___ day of _____, 200__, did make certain findings wherein a judgment of foreclosure was entered in favor of the plaintiff, said judgment being attached hereto and made a part hereof as Exhibit A; that said findings and judgment of foreclosure included that the parcel(s) of land described therein were delinquent in taxes, assessments; that for said delinquency, Plaintiff has a good and first lien against said parcel(s) ordered foreclosed; therefor, the Sheriff is ordered, without appraisal or public auction to execute forthwith and to transfer the parcel to the Community Development Group by Sheriff's Deed on the form attached hereof as Exhibit B and made a part hereof. Such order to transfer is based upon the finding by the Board of Revision that the Impositions as defined in R.C. 323.65 exceed the fair market value of said parcel(s) as prescribed in R.C. 323.73(G) thereby authorizing the Sheriff to deliver the attached deed to a political subdivision, certificate holder or community development organization without appraisal or public auction. The Sheriff need not prepare a deed(s), but is hereby authorized to execute and delivery the attached Exhibit B Sheriff's Deed.

The Clerk is hereby commanded to file and forthwith deliver to the Sheriff this Order to Sheriff to Transfer to Community Development Group; and the Sheriff is hereby commanded to proceed to carry said Order, Judgment and Board of Revision Decree into execution, and that you dispose of said parcel(s) by direct delivery to the _____ after first confirming payment or settlement of all applicable costs by the Plaintiff in accordance with R.C. 323.74 and 323.75; and, that you report your proceedings herein to the Board of Revision and County Prosecutor within thirty (30) days from the date hereof and bring this Order with you. Pursuant to R.C. 323.73(G), the filing of this order with clerk shall terminate any statutory or common law right of redemption. Writ of Possession against all party defendants ordered issued to the transferee of the parcel(s).

IT IS SO ORDERED:

County Treasurer
Date: _____

County Auditor
Date: _____

County Commissioner
Date: _____

FORM NO. 30

R.C. 323.73(G)

Order to Transfer to Community Development Group with Delivery Instructions

This Order is designed to be used with those situations in which the Board has ordered the property transferred to a community development organization without the need for Sheriff's sale. Again, such circumstances are appropriate under R.C.323.73(G) where the tax impositions exceed the fair market value of the property. In those instances, the state will have the first and best lien on the property and there is no need to have a Sheriff's sale. Hence, once there is a finding of foreclosure against the property and the Board has determined that a Sheriff's sale is unnecessary, rather than issuing a "Order of Sale," the Board will issue an order to the Sheriff to simply execute a deed to the community development group where a municipality has expressed its consent (as prescribed in R.C. 323.65(H) to the community development group acquiring the property directly. This deed, depending upon individual county practice, can be prepared by the Sheriff as it typically does or it may actually be prepared by the Board of Revision and included as an exhibit on the Order to Transfer. In such instances, the Sheriff need not prepare the deed, but is simply required to sign the deed and deliver it according to the Board's order. Board prepared Orders of Sale/Transfer and Deeds will tend to speed things up. If a Clerk and the Sheriff do not have to spend time preparing Orders of Sale and Deeds, but merely have the ministerial task of signing the Board's pre-approved, pre-prepared forms, this will save time. It will be less cumbersome for the Clerk and Sheriff and better serve the public policy of the statute in getting the property into productive hands in a quick and efficient manner.

**IN THE BOARD OF REVISION/COURT OF COMMON PLEAS
OF _____ COUNTY, OHIO**

_____, as Treasurer of
_____ County, Ohio,
Plaintiff,

CASE NO. BR/CCP _____

-vs-

Permanent Parcel No. _____

CONFIRMATION OF SALE: _____

OR FORFEITURE TO STATE: _____

_____, et al
Defendant(s)

This cause came on to be heard on the report of the officer conducting the Sheriff's sale of Permanent Parcel No. _____, property included in the above entitled action.

The Board of Revision ("BOR")/Court of Common Pleas ("CCP") finds that an action for foreclosure of liens on such Parcel for such delinquent land taxes was commenced by the Prosecutor on behalf of the County Treasurer; and, that a finding was made by the BOR.CCP in an Adjudication of Foreclosure referenced Assigned Image No. _____ (per the Clerk's docket), for the County Treasurer, for all "Impositions" as defined in R.C. 323.65 as of the date of this entry of Confirmation of Sale, and all allocated costs incurred in the proceedings.

The BOR/CCP further finds, based on the Bid Sheet supplied by the Prosecuting Attorney that the Impositions are as follows:

Total Taxes and Impositions: _____

Total Costs: _____

Title Reports (provided by Prosecutor) _____
(Payable to _____ County Commissioners)

Court/Clerks Costs (provided by Clerk) _____
(Payable to the _____ County Clerk)

Sheriff's Costs (provided by Sheriff): _____
(Payable to the _____ County Sheriff)

Minimum Bid: _____

as reflected in the report of the prosecutor/report of sale of Sheriff (attached hereto as "Minimum Bid Worksheet"), the total amount of which is the "Minimum Bid" as defined by the statutes of Ohio.

The BOR/CCP further finds that the total of all allocated costs incurred in the proceedings, as set forth above, shall be payable as set forth above.

The BOR/CCP further finds that a form of Order of Sale filed the ____ day of _____ 200__ in the within case was issued to the Sheriff directing him to advertise and sell said Parcel according to the tenor of said Adjudication of Foreclosure and in the manner provided by law for the sale of real property on execution according to R.C. 323.65 through 323.79, and R.C. 5721.19 and 5722.03, where and if applicable, and, for not less than the total amount of the Findings of the Board which constitutes the "Minimum Bid".

The BOR/CCP further finds that the Sheriff did advertise said parcel for sale once a week for three (3) consecutive weeks in the _____ News as reflected on the docket or in the file; and, that the notice of foreclosure sale was substantially in the form required in R.C. 5721.191 or 323.65-323.79 as applicable. The BOR/CCP further finds that said notice of foreclosure sale did set forth that said sale of the Parcel would be public, for cash, and would be sold to the highest bidder with a bid sufficient to satisfy the "Minimum Bid" as set forth herein and/or the Order of Sale;

The BOR/CCP further finds that said notice of foreclosure sale did include that the sale was to be held at the time and place, and in the manner stated in such notice; and the BOR/CCP hereby authorizes that should the Sheriff not receive a bid at the first sale of said parcel sufficient to satisfy the "Minimum Bid", the Sheriff may execute a deed for a direct transfer; first to the electing subdivision/political subdivision in which the parcel reposes (if so requested by said municipality); or, second, to a county land reutilization corporation (if so requested by such land reutilization corporation); or again offer said parcel for sale at a second sale in the case of no such municipal or land reutilization corporation interest, pursuant to the provisions of R.C. 323.65-323.79 at the same time of day and at the same place, on the second sale date specified in the aforesaid notice of foreclosure sale, and all as provided in the aforesaid Order of Sale.

The BOR/CCP finds that the Sheriff did separately offer said Parcel for sale, without appraisal, at public sale in the manner provided by law for the sale of real property on execution according to R.C. 5721.19 and 5722.03, and R.C. 323.65-323-79 where applicable. The BOR/CCP further finds that said parcel was **either**:

1. _____ sold to _____
(Purchaser)

(Address)

2. _____ deemed sold pursuant to R.C. 323.65-323-79 and the Order of Sale, and thereby transferred to:

(Electing Subdivision/Political Subdivision)

(Address);

and that upon the transfer of said Parcel to; _____ as part of the Land Reutilization Program, the proceeds from such sale shall be applied and distributed according R.C. 5722.08;

3. _____ offered at a second sale due to no bid and no municipal or land reutilization corporation interest at the first sale, pursuant to R.C. 323.65-323.79, at the same time of day and at the same place, on the second sale date stated in the aforesaid notice of foreclosure sale, and thereby sold or transferred to:

(Purchaser at second sale)

(address)

on the date of said public sale, for not less than the "Minimum Bid," or the amount prescribed under R.C. 323.65-323.79 and R.C. 5722.01 et seq. as applicable ("Land Bank Costs"); or

- 4. _____ offered for sale at a second sale, at the same time of day and at the same place on the second sale date stated in the aforesaid notice of foreclosure sale, and due to no bid and no political subdivision or land reutilization corporation interest at the second sale pursuant to the provisions of R.C. 323.65-323.79, was thereby forfeited to the State of Ohio for want of a bid.

WHEREFORE, the BOR/CCP being satisfied that the sale, transfer or forfeiture has been in all material respects in conformity to the law and the order of this BOR/CCP, the BOR/CCP hereby approves and confirms the sale, transfer or forfeiture as set forth below:

_____ IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the sale or transfer to a political subdivision as provided in R.C. 323.65-79, upon payment of the purchase price, or Land Bank Costs as the case may be, **is hereby confirmed**, and the _____ County Sheriff shall execute and deliver a good and sufficient Deed to the said purchaser(s)/transferee: _____

It is further ORDERED that from the proceeds of said sale or transfer the Sheriff shall pay the sums of money set forth herein, to the parties as are herein set forth. It is further ORDERED by the BOR/CCP that a copy of this Confirmation of Sale or transfer be issued and delivered to the Sheriff of _____ County, Ohio, to the attention of the Chief Deputy, Civil Division or to the Sheriff; to the Auditor of _____ County, Ohio, to the attention of _____ or to the Auditor. It is further ORDERED, ADJUDGED AND DECREED that the equity of redemption is extinguished and that any parties defendant owning or claiming any right, title, or interest in, or lien upon said parcel, together with such who may have right of dower, shall be and they are hereby forever barred from asserting any right, title or interest in, or lien upon the said parcel.

OR

_____ IT IS THEREFORE ORDERED ADJUGED AND DECREED that the said parcel hereafter described in Exhibit A attached hereto be and **is hereby Ordered forfeited to the State of Ohio**; and that the Plaintiff pay the actual costs incurred in this action as set forth above and that the Board of County Commissioners be instructed to pay over to the _____ County Clerk of Courts for distribution the total amount of costs incurred which remain unpaid in this action, in accordance with R.C. 325.31. It is further Ordered that a copy of this entry be issued and delivered to the _____ County, Ohio Auditor to the attention of _____, Deputy Auditor (or his/her designee) or to the Auditor; and notwithstanding the foregoing, from the date of entry of this forfeiture order to the time of any transfer by Auditor's deed of the parcel pursuant to an Auditor's sale pursuant to law, should a county land reutilization corporation request in writing to acquire said parcel, the Auditor shall forthwith execute and deliver an Auditor's deed to such corporation, whereupon any equity of redemption in the parcel that may otherwise exist shall forever be terminated and extinguished as against all parties, and the parcel shall be incontestable in said corporation, free and clear of all taxes and assessments, liens and encumbrances, except easements and covenants of record running with the land as were created prior to the time the taxes and assessments became foreclosed up .

IT IS SO ORDERED: Date: _____

JUDGE [or the Three Board of revision Members as the case may be]

FORM NO. 31
R.C. 323.76(A)
Resolution and Order of Confirmation of Sale or Forfeiture to State

This form recites and confirms the regularity of the sale proceedings in resolution form as required by R.C. 323.76(A). The filing of this resolution with the Clerk results in a termination an owner's statutory or common law right of redemption as against all other parties to the lawsuit.

As it pertains to properties that are sold at Sheriff's sale, this form is designed to simply provide a resolution and Order of Confirmation of such sale in much the same way a judicial confirmation order would provide. A writ of possession is ordered as against all other parties to the lawsuit.

Under HB 294 practice however, once a property is ordered to a sale, four things can happen: 1.) the property can be sold to a buyer at the first sale; 2.) in the case of no bidder at the first sale *with a request on file of municipality to acquire the property*, the property is deemed sold to the municipality; 3.) in the case of no bidder at the first sale but *no request from a municipality to acquire the property*, the property goes to a second sale at which time the property is sold to a buyer; and 4.) in the case of a second sale with no municipal interest, there still is no bidder, the property is forfeited to the State of Ohio.

This form is designed to allow the BOR to simply check-off in the blanks provided, which of the four dispositions are to be ordered based on the results of the Sheriff sale(s). It is designed to limit the number of forms used by the BOR in the case of *Sheriff sale* confirmations (whether there is a bidder or not).

All confirmations must be journalized.

IMPORTANT NOTE: Copies of journalized confirmations involving *direct transfers* to a land bank or *forfeitures* to the State of Ohio **must** be sent to the appropriate named individuals in the Auditors office and County Commissioners so that these properties can be officially removed from the duplicate since they are being held by the State or a R.C. 5722 Land Bank for which real estate taxes are not levied.

IN THE BOARD OF REVISION
_____ COUNTY, OHIO

_____ County Treasurer

Plaintiff

CASE NO. BR-00-000000

vs.

Consent of Municipality to
Transfer to Community
Development Group

_____ et al.

Defendants

Whereas the City of _____ (“City”) is advised that the parcel(s) of land described as permanent parcel no. _____ in the City is, or is about to be, foreclosed upon in the _____ County Board of Revision; and

Whereas the same desires to authorize the transfer of said parcel(s) to an approved and authorized Community Development Group;

Be It Known:

That if the aforesaid parcel(s) is foreclosed upon, and such parcel qualifies for a direct transfer from the Sheriff as prescribed in R.C. 323.65(H), then the City of _____ hereby certifies that:

1. It consents to any such transfer directly to _____ or its assigns (the “Community Development Group”);
2. To the City’s best knowledge and belief the Community Development Group meets the criteria established in R.C. 323.65 (H)(1) and (2);
3. It is in the City’s interest for the Community Development Group to receive title to the parcel(s) based upon a reasonable inquiry into such group’s intended re-use, rehabilitation and/or repair of the parcel(s) and reasonable belief that such parcel(s) will cease to be “abandoned lands” within a reasonable amount of time after the transfer of title to such Community Development Group.
4. Any inquiries about the foregoing may be made to the following:

Name: _____ Address: _____
telephone: _____ fax: _____

Acknowledged:

Authorized Official
Department/Division: _____ Date: _____

FORM NO. 32
R.C. 323.65(H)

Consent of Municipality to Transfer to a Community Development Group

The Board may adopt any form it wishes to satisfy itself that a City desires the property to be transferred to a qualified community development group. The only requirements in the statute for transferring directly to a community development group is that the political subdivision execute a paper of some sort giving the political subdivision's official consent to the transfer to a designated community development group. The statute further only requires that the community development group be in good standing and in existence for a prescribed period of time. This form provides the appropriate language giving the political subdivision's consent and attestation that the community development group meets the criteria established in R.C. 323.65(H)(1).

IN THE BOARD OF REVISION
_____ COUNTY, OHIO

County Treasurer
[Certificate Holder]
Plaintiff

CASE NO. _____

vs.

Parcel No. _____

_____, et al.

**Statement of Interest of
Municipality in Receiving Direct
Transfer of Foreclosed Parcel(s)**

TO THE _____ COUNTY BOARD OF REVISION: GREETING

Whereas the (City of _____) (County of _____) (Township of _____) (“City,” “County” or “Township” as the case may be) is advised that the captioned parcel(s) of is being, or about to be, foreclosed upon in the _____ County Board of Revision; and

Whereas the same desires to acquire title to such parcel(s);

Be It Known:

If the parcel(s) are foreclosed upon, and qualify for a direct transfer from the Sheriff to a Municipality or an Electing Subdivision as defined in R.C. 323.77, the City/County/Township of _____ hereby certifies that:

1. It will accept title to the parcel(s) upon such qualification to transfer directly;
2. In the event such direct transfer becomes available as a result of an attempted sale pursuant to R.C. 373.73 but in which no bid was proffered, then the City/County/Township hereby elects to be deemed the winning bidder for such parcel(s) at any such sale pursuant to R.C. 323.77.
3. Any inquiries about the foregoing may be made to the following:

Name: _____
 City/County/Township: _____
 Address: _____
 telephone: _____ fax: _____
 Acknowledged:

 Authorized Official
 Department/Division: _____
 Date: _____

FORM NO. 33
R.C. 323.77; 323.73(G)
Statement of Interest of Municipality

This form can be used in two situations. First, in the event that a property goes to Sheriff's sale with no bidders, it is very difficult for municipalities to officially show up at each one of these hearings. Hence, the statute allows the "electing subdivision" municipality (*See*: R.C. 5722.01) to merely state its interest in advance in acquiring the property in the event that there is no bidder. In such instances, the municipality will be deemed the winning bidder if it has a form such as this on file with the Board of Revision.

Likewise, if the tax impositions exceed the fair market value of the land and the City desires a direct transfer of the property without sale, it should supply the Board with a statement of interest such as this form. While this form does not guarantee that a direct transfer will occur if the Alternative Right of Redemption is not applicable to the case and the tax impositions may not be in excess of the fair market value, it nevertheless assures the municipality of the likelihood of such transfer in the event the Board issues a final adjudication of foreclosure and it turns out that the tax impositions, in fact, do exceed the fair market value of the land.

Form 34: Deed Form
SHERIFF'S DEED
(Direct Transfer)

Whereas the _____ County Board of Revision ("BOR")/Court of Common Pleas ("CCP"), pursuant to R.C. 323.25, 323.65-323.79, and/or 5721.18 in that certain civil proceeding being **Case No.** _____ ordered a foreclosure decree (the "Decree") against _____ wherein the _____ County Treasurer was the plaintiff and _____, et al. were the defendants; and

Whereas the Decree was issued to foreclose the State's lien for real estate taxes upon the subject lands thereby dispensing with the requirement of appraisal as prescribed by law; and

Whereas on the ___ day of _____, 20___, an Order to Transfer ("Order to Transfer") issued on said BOR/CCP Decree, directing the _____ County, Ohio Sheriff (the "Sheriff") to proceed to transfer, without sale or appraisal, the lands described in Exhibit A attached hereto, made a part hereof, whereupon, the Sheriff, pursuant to the Order to Transfer, did execute this deed in compliance therewith; and

Whereas, the proceedings by the Sheriff had in the premises, were submitted to the BOR/CCP, and by it in all respects confirmed by resolution as provided in R.C. 323.65 to 323.79; and the Sheriff was ordered and directed to execute and deliver the within good and sufficient Sheriff's Deed of Conveyance of said real estate to the said transferee **CITY OF _____** or _____.

Now therefore, by virtue of the foregoing, the Sheriff has GIVEN, GRANTED, and CONVEYED, and by these presents does hereby GRANT, SELL OR CONVEY unto said _____ and said transferee's heirs, successors and assigns forever whose tax mailing address shall be as follows: _____. To have and to hold, the transferee herein, and his/her/its heirs, successors and assigns forever, all right, title and interest in the following lands and tenements **being permanent parcel nos.** _____

Subject to all restrictions, covenants, limitations, conditions, easements and rights of way of record.

Whereof, I have, as Sheriff, hereunto set my hand this ____ day of _____, 20___.

_____, _____ County Sheriff

Sheriff/Deputy Sheriff of _____ County, Ohio

The State of Ohio)
County of _____) ss

On this ___ day of _____, 20___ personally appeared _____, Sheriff/Deputy Sheriff of said _____ County, Ohio who acknowledged that he/she did voluntarily and officially sign the foregoing Sheriff's Deed for the uses and purposes therein expressed.

Notary Public

This instrument was prepared by:

____ County Board of Revision/CCP _____ County Sheriff

SHERIFF'S DEED
(Tax Sale)

Whereas the _____ County Board of Revision ("BOR")/Court of Common Pleas ("CCP"), pursuant to R.C. 232.25, 323.65-323.79, and/or 5721.18 in that certain civil proceeding being **Case No.** _____ ordered a foreclosure decree (the "Decree") against _____ wherein the _____ County Treasurer was the plaintiff and _____, et al. were the defendants; and

Whereas the Decree was issued to foreclosure the State's lien for real estate taxes upon the subject lands thereby dispensing with the requirement of appraisal as prescribed by law;

Whereas on the ___ day of _____ 20___, a certain order of sale ("Order of Sale") issued on said BOR/CCP Decree directing the _____ County, Ohio Sheriff (the "Sheriff") to proceed to advertise and sell without appraisal, the lands described in Exhibit A attached hereto and made a part hereof, whereupon, having caused said real estate to be duly advertised for at least thirty (30) days prior to such scheduled sale which advertisement supplied notice of the date, time and place of sale thereof by causing the same to be published three consecutive weeks, and on the same day of each week, in the _____ News being a publication printed and of general circulation in _____ County; and said Order, if applicable, included a finding that said parcel had been determined by a political subdivision or electing subdivision (list if any: **list any city or LRC in this space, or write "N/A"**) to be 'Non Productive Land' pursuant to R.C. Chapter 5722, which finding was affirmed by the BOR/CCP such that if no minimum bid is received at the first sale, such parcel would be deemed sold to said subdivision as Transferee.

Whereas on the ___ day of _____, 20___ the Sheriff did expose the real estate for sale at public auction at _____, Ohio and the same was then and there publicly sold to _____ for the sum of _____ (\$_____), which as of the confirmation includes all the costs, being the highest and best bidder, and constituting at least the legal minimum bid pursuant to law;

Whereas, the said proceedings by the Sheriff had in the premises, were submitted to the said BOR/CCP, and by it in all respects confirmed by resolution or as provided by law in R.C. 323.25, 323.65 to 323.79, and/or 5721.18; and the said Sheriff was ordered and directed to execute and deliver the within good and sufficient deed of conveyance of said real estate to the following transferee/buyer(s)

(print exact buyer name)

(tax mailing address)

city/state/zip

Now therefore, by virtue of the foregoing, the Sheriff has GIVEN, GRANTED, and CONVEYED, and by these presents does GRANT, SELL AND CONVEY unto said _____, and said transferee's heirs, successors and assigns forever. To have and to hold, the transferee herein, and his/her/its heirs, successors and assigns forever, all right, title and interest in the following lands and tenements known as **permanent parcel nos.**

Subject to all restrictions, covenants, limitations, conditions, easements and rights of way of record.

Whereof, I have, as Sheriff, hereunto set my hand this ___ day of _____, 20___

_____, _____ County Sheriff

Sheriff/Deputy Sheriff of _____ County, Ohio

The State of Ohio)
County of _____) ss

Sworn to, acknowledged and subscribed in my presence _____,
Sheriff/Deputy Sheriff of _____ County who acknowledged he/she freely and
officially signed the foregoing Sheriff's Deed this ___ day of _____, 200__.

Notary Public

This instrument was prepared by:

____ County Board of Revision _____ County, Ohio Sheriff

Page 2, Sheriff's Deed, Case No BR _____

Form 34: Deed Forms

This Deed form is adapted from the one commonly used by the _____ County Sheriff. It contains some arcane nomenclature and has unnecessary verbiage in places. However, it is a form that is recognizable to the _____ County Sheriff based upon past usage.

Counties are obviously free to use any deed form they are accustomed to, and which will legally convey the property in question. As time goes on, it would be best to speak with local title companies or the local prosecutor to develop a simplified form which takes away all of the mystique of some of the Old English and other arcane verbiage. There is no magic to a deed other than that it contain language of conveyance, the description, the parcel number, reference to consideration, contain the tax address, reference the statute under which the Sheriff is conveying the property and containing a space for the Sheriff's and Notary's signature.

IN THE BOARD OF REVISION
_____ COUNTY, OHIO

County Treasurer
Plaintiff

Case No. _____

Parcel No: _____

vs.

Order Relating to Municipal Nuisance
Liens and Assessments

_____ et al.
Defendants

This matter was heard this ____ day of _____, 200__ upon the petition of:

[____ the Certificate Holder]; [____ an Owner(s)]; or [____ a lienholder(s)]; to determine the validity of all or a portion of any municipal nuisance abatement assessments alleged in the Complaint and which are reflected on the duplicate attributable to municipality:

(__ weed cutting); (__ demolition); (__ board up) liens and/or charges as provided in R. C. 715.26 and 715.261 or as otherwise permitted by law.

Whereas the Board has concluded that due to:

____ the Board's finding that all or a portion of such impositions alleged in the Complaint are correctly and properly assessed:

____ the Board's finding that all or a portion of such impositions alleged in the Complaint are incorrectly or improvidently assessed:

____ the Plaintiff's inability or failure to show by a preponderance of evidence that all or a portion of such impositions alleged in the Complaint are valid and owing;

Now therefore:

____ the impositions alleged in the Complaint attributable to: (__ weed cutting); (__ demolition); (__ board up) liens are hereby declared invalid, and **the Auditor is ordered to remove from the duplicate** such impositions specifically attributable to such liens (list years or specific assessments: _____);

____ the Board denies Petitioner's motion.

This matter is set for further proceedings on the ____ day of _____, 200__ at _____ a.m./p.m. at _____, OH441__.

IT IS SO ORDERED

County Treasurer
Date: _____

County Auditor
Date: _____

County Commissioner
Date: _____

Form 35

Section 323.70(A) provides in pertinent part “[i]f, after a hearing, the board finds that the validity or amount of all or a portion of the impositions is not supported by a preponderance of the evidence, the board may order the county auditor to remove from the tax list and duplicate amounts the board finds invalid or not supported by a preponderance of the evidence. The auditor shall remove all such amounts from the tax list and duplicate as ordered by the board of revision, including any impositions asserted under sections [715.26](#) and [715.261](#) of the Revised Code.”

With large municipalities, there are instances where weed cutting assessments or other liens assessed under R.C. 715.26 715.261 have been improvidently or mistakenly certified to the Auditor. When this is the case, the taxpayer often unwittingly pays the underlying taxes thinking that he/she is in good standing with the taxing authorities; however, to the extent of a nuisance abatement imposition, that tax payment always gets applied **first** to the ostensible unpaid assessment. As a result, the tax payer continues to be charged interest and penalty on the ostensible unpaid portion of the impositions. It can be very a difficult and cumbersome proposition for a taxpayer to have these liens on their property quickly and efficiently removed thereby improperly encumbering the property.

Hence, if a taxpayer can show by a preponderance of the evident at a hearing on the “...merits of a complaint...” that these impositions are improper, or if the taxpayer makes a prima facie case at a hearing on the merits that these impositions were not due and owing and the plaintiff is thereafter unable rebut the prima facie showing, then this form allows the BOR to adjudicate this issue by ordering the Auditor remove such impositions from the duplicate that the BOR finds are improper or improvidently assessed.

If the BOR wishes, it may promulgate rules designed to continue such cases so as to afford the plaintiff the opportunity to call a witness(es) of the political subdivision which initiated the assessment to appear and provide evidence.

IN THE BOARD OF REVISION
_____ COUNTY, OHIO

_____))
_____)) **County Treasurer**) **BR** _____)
_____)) **Plaintiff**))
vs. _____)) **Order to Vacate**)
_____, et al.))

Defendant(s)

_____ On the Board's own motion for an order to vacate a previous order, decree or finding as described below:

_____ Plaintiff (___ Treasurer/___ Certificate Holder/___);
(___ Owner); or
(___ Other Interested Party of Record)

has moved/requested the Board for an order to vacate a previous order, decree or finding as described below:

The Board of Revision hereby:

Orders that the entry filed/journalized on _____ and/or with assigned Image No. _____ be, and is hereby vacated.

_____.

The case is set for (___ further proceedings on a date to be determined by the Board); (___ final hearing) on the ___ day of _____, 200____, at _____ a.m./p.m. at _____, Ohio 441____.

You are urged to attend the hearing. Failure to attend and defend your interests may result in an adverse judgment against you. This means that the parcel(s) listed above may be foreclosed upon and subject to a Sheriff's Sale at which time the property will be sold for the taxes, or otherwise transferred directly without appraisal or sale to an eligible township, municipality, county or land bank. In such event, you will forever lose any right, title or interest in and to said parcel(s) including by virtue of R.C 323.78 (Alternative Right of Redemption).

IT IS SO ORDERED:

County Treasurer
Date: _____

County Auditor
Date: _____

County Commissioners

Date: _____

Form 36: Orders to Vacate

H.B. 294 does not contain explicit language detailing orders to vacate. However, the HB 294 statutes allow and all Civil to be used where convenient. It is inherent in any judicial or administrative proceeding that mistakes, clerical errors, or circumstances will arise where it is in the interest of justice to vacate a prior order. Such an Order will always be served on the parties so that vacate orders can be reacted to by the parties.

In other words, if a hearing date is vacated, or an adjudication of foreclosure is vacated, or a dismissal of a case is vacated, in each case, a new notice will go out to the parties informing them of the proceedings to follow. In this way notice and opportunity to be heard is preserved. Conversely, an order, for example, which vacates a dismissal and enters an adjudication of foreclosure would be entirely improper because it would constitute an adjudication of the merits without notice and opportunity to be heard.

Accordingly, pursuant the authority in R.C. 323.66(B)(1) and (D), a BOR may adopt rules to govern these procedures as they will almost always pertain to procedure and hearing scheduling.