



CITY OF BUFFALO  
DEPARTMENT OF LAW  
1132 CITY HALL • BUFFALO, NY 14202 • (716) 851-4343

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## GUIDELINES AND INSTRUCTIONS FOR FILING AN EQUITABLE CLAIM FOR FORECLOSURE PROCEEDS

### GUIDELINES

The City of Buffalo Department of Law reviews and evaluates equitable claims for surplus foreclosure auction proceeds. Please review these guidelines and eligibility criteria carefully before submitting a claim.

#### Eligible Claimants

Persons who are former owners of the foreclosed property, and who were the last persons to occupy the property prior to foreclosure (“owner occupants”) may file a claim. In the event that the owner of the property is deceased, the Executor or Administrator of deceased owner’s estate or the heir or beneficiary of deceased owner’s property may also apply.

Persons who were the last title owners of the foreclosed property, and who derived rental income or sought to derive rental income from the property (“investors”), may apply, as well as lienholders who had a duly recorded lien against the foreclosed upon property at the time of the filing of the judgement of foreclosure.

#### Eligibility Criteria

A Claimant will be awarded proceeds if the claim meets one of the two following criteria:

##### 1. Financial Distress

The Claimant demonstrates that the property was lost to foreclosure because the Claimant did not have the financial ability to pay the taxes, sewer rent, or user fees that were foreclosed upon and resulted in the property being sold at the foreclosure auction.

##### 2. Substantive Procedural Deficiency

The Claimant demonstrates that a procedural deficiency resulted in no notice of tax foreclosure having been sent to the Claimant.

Claimants seeking proceeds will be required to provide a description of why the claim meets the eligibility criteria, due to either financial distress or procedural deficiency. The Department of Law reserves the right to make further inquiries, and if necessary, discuss the particulars of the claim with the claimant at a hearing.

#### Time Limitations

Please note the following time limitations on claims for surplus monies:

**Owner Occupants:** Five (5) years from the date of publication of the Notice of Foreclosure Proceeds Availability.

**Investors:** Two (2) years from the date of publication of Notice of Foreclosure Proceeds Availability.

**Lienholders:** One hundred and twenty (120) days from the date of publication of the Notice of Foreclosure Proceeds Availability.

#### Decisions and Appeals

All decisions to accept or deny the claim will be made in writing. Claimants may appeal the decision within one hundred and twenty (120) days of the decision pursuant to Article 78 of the New York State Civil Practice Law and Rules (CPLR); however, if additional time is needed due to hardship, Claimants may request a one-year extension to appeal, with a written explanation of the hardship and why additional time is necessary. The Law Department will grant or deny the extension within ten (10) business days of receipt of the request.

#### Disbursement of Funds

Once a decision has been made to award the claim, the City will disburse funds within thirty (30) days of the decision to award.

**INSTRUCTIONS FOR PREPARING AND SERVING AN EQUITABLE CLAIM FOR FORECLOSURE PROCEEDS UPON THE CITY OF BUFFALO**

1. **TWO COPIES of the EQUITABLE CLAIM FORM shall be completed and mailed to, or served upon:**  
**CITY OF BUFFALO**  
**CORPORATION COUNSEL'S OFFICE**  
**DEPARTMENT OF LAW – CLAIMS DIVISION**  
**1132 CITY HALL**  
**BUFFALO, NY 14202**

2. **A NOTICE OF CLAIM must contain the following information:**

- A. NAME AND ADDRESS of the Claimant and/or Corporation and/or Attorney (if any).
- B. ADDRESS of the property subject to foreclosure.
- C. INDEX NUMBER OF THE FORECLOSURE ACTION. This can be found on the City of Buffalo Department of Law Website at <https://www.buffalony.gov/379/Law-Department>.
- D. PUBLISHED AMOUNT OF SURPLUS FORECLOSURE PROCEEDS. This can be found on the City of Buffalo Department of Law Website at <https://www.buffalony.gov/379/Law-Department>.
- E. AMOUNT OF PROCEEDS SOUGHT TO BE COVERED. The amount may be different than the available proceeds if the Claimant can only claim an amount that represents a portion of the available proceeds.
- F. TYPE OF CLAIMANT. Indicate whether the Claimant is the former fee owner, the executor/administrator/heir or beneficiary of the deceased owner, lienholder or other. If the Claimant is the former fee owner, indicate whether the Claimant was the last owner occupant of the property or an investor. An investor is defined as a person, entity, or corporation that either received rental income, or had intended to receive rental income from the property subject to foreclosure.
- G. PROOF OF CLAIM. Former fee owners must provide two (2) copies of the deed indicating former ownership of the parcel. Former fee owners who were the last occupants of the property prior to foreclosure must show two (2) documents proving their occupancy, such as recent utility bills, government identification with an address, or other similar documents demonstrating occupancy. Former fee owners who are investors must list all other properties which the Claimant owns, and list all properties in which the Claimant has any interest.

Lienholders must attach two (2) copies of a Title Search which runs from the date of the last former fee owner's acquisition of the property, to the first day of the month in which this Equitable Claim for Foreclosure Proceeds is served, as well as attach two (2) copies of additional proof of lien, such as recorded mortgage or judgment. If the name on the deed or lien is other than the Claimant's, the Claimant must provide proof that the Claimant has a legal interest and right to make the claim.

Claimants must provide written explanation as to why the claim should be approved based on either: 1) financial distress leading to foreclosure, or 2) a procedural deficiency that resulted in no notice of foreclosure having been sent to the Claimant. The City reserves the right to request additional documents and/or request a hearing to determine particulars of the claim. Additional pages may be attached to the claim form as necessary.

- H. A thirty-dollar (\$30) distribution fee will be deducted from proceeds to cover administrative costs if the claim is approved.

**The Equitable Claim Form for Foreclosure Proceeds must be notarized.**

Two copies of Notice of Claim must be served on the Corporation Counsel's Office personally, or by Certified Mail—Return Receipt Requested, or by Registered Mail—Return Receipt Requested, within the time limitations specified.

***PLEASE BE ADVISED THAT FAILURE TO COMPLY WITH ANY OF THE ABOVE INSTRUCTIONS MAY RESULT IN DENIAL OF THE CLAIM.***