

STATE OF NEW YORK COUNTY COURT
COUNTY OF SCHOHARIE

In the Matter of Foreclosure of _____ tax liens
by Proceedings in Rem Pursuant to Article Eleven
of the Real Property Tax Law by the County of
Schoharie.

**CERTIFICATE AS TO
NOTICE OF CLAIM**

Index No.: _____

Justice Assigned: Hon. Ryan T. McAllister

Property Address: _____

Property Town: _____

Property Tax Map #: _____

Former Owner Name(s): _____

I, _____, County Clerk, do hereby certify, that there is no notice of
claim to surplus moneys in the above-entitled action on file, except the notice of claim of

- 1.) _____, by _____, Atty, filed _____;
(Name of Claimant 1) (Name of Attorney) (Date of Filing)
- 2.) _____, by _____, Atty, filed _____; and
(Name of Claimant 2) (Name of Attorney) (Date of Filing)
- 3.) _____, by _____, Atty, filed _____;
(Name of Claimant 3) (Name of Attorney) (Date of Filing)

Copies of all notices of claim must be attached to this form.

Dated: Schoharie, New York

_____, 20____

(SEAL)

Schoharie County Clerk

STATE OF NEW YORK COUNTY COURT
COUNTY OF SCHOHARIE

In the Matter of Foreclosure of _____ tax liens
by Proceedings in Rem Pursuant to Article Eleven
of the Real Property Tax Law by the County of
Schoharie.

**REFEREE'S REPORT OF
SURPLUS MONEYS**

Index No.: _____

Subject Parcel:

Town of _____

Tax Map # _____

TO THE COUNTY COURT OF THE STATE OF NEW YORK, COUNTY OF SCHOHARIE:

In pursuance of an Order of Reference in the above-entitled proceeding signed by the
Hon. _____ [Justice Assigned] on _____ [date of Order of
Reference] and entered in the Office of the Clerk of the County of Schoharie, whereby it was
referred to the undersigned as Referee to ascertain and compute the amount due to the Claimant
or any other person who has a lien on the surplus moneys and to ascertain the priorities of the
liens.

1. I, _____ [Name of Referee], the Referee in the said Order
named, DO HEREBY REPORT that before proceeding to review the claims and
documentary evidence I was first duly sworn faithfully and fairly to determine the
questions referred to me and to make a just and true report thereon according to the
best of my understanding; that I have computed and ascertained the amount due to the
Claimant and to any other person who has a lien on the surplus moneys and to
ascertain the priorities of the liens and that I find and according report:
2. Before proceeding with this matter, I duly took and subscribed the oath as prescribed
by law.
3. I caused a copy of the Notice of Claim filed by the Claimant/Former Owner to be
served by regular mail upon all the parties who have appeared in the action and all
parties who have filed a Notice of Claim to submit detailed claims in writing. Copies
of the notice with due proof of service thereof is annexed hereto and made a part
hereof as Exhibit "A".
4. I have examined the Notice of Claim of the Claimant/Former Owner annexed hereto
and made a part hereof as Exhibit "B".
5. I have examined the information in support of the application for surplus moneys
together with exhibits, all as set forth on Exhibit "C".
6. I have examined the lien and judgment search submitted by the Claimant/Former
Owner and the same is annexed hereto and made a part hereof as Exhibit "D".

7. That the surplus moneys herein paid in court amount to the sum of \$ _____ [Amount of Surplus] as evidenced by the Certificate of Surplus Funds of the Schoharie County Treasurer annexed hereto and made a part hereof as Exhibit "E".
8. No claim to said surplus moneys has been filed except for the Claims set forth in detail on Exhibit "F" annexed hereto and made a part hereof.
9. The Claimant has consented to the amount of the claim filed by _____ [Insert Name of Creditor/Claimant].
10. Based upon my review of the Notices of Claim and upon consent of the Claimant, I have ascertained and computed the amounts due to the claims for surplus moneys filed as follows:

[Insert name of creditor, with original amount due, plus statutory interest]
[Once all creditors/claimants are listed, enter name of original claimant with the balance of surplus funds due to them] together with interest, less fees as calculated by the Schoharie County Treasurer and less the Referee's fee of \$350.00.

11. After payment of the above amount due, the remaining balance together with interest and less any fees as calculated by the Schoharie County Treasurer be paid to the Claimant _____
[Insert Name of original Claimant/Former Owner].
12. No party or attorney was given notice of any hearing and no party was entitled to notice thereto.

Dated: Schoharie, New York

_____, 20____

Referee

STATE OF NEW YORK COUNTY COURT
COUNTY OF SCHOHARIE

Index No.: _____

In the Matter of Foreclosure of _____ tax liens
by Proceedings in Rem Pursuant to Article Eleven
of the Real Property Tax Law by the County of
Schoharie.

**NOTICE OF CLAIM
TO SURPLUS MONIES**

Subject Parcel:

Town _____

Tax Map # _____

To the Schoharie County Court Clerk:

You will please take notice that _____
(Insert your name)
of _____,
(Street Address) _____,
(Insert City/Town/Village; State; Zip Code)

one of the Defendants in the above-entitled actions, is entitled to the surplus monies, or a portion thereof, arising from the sale made on the _____ day of _____, 20____ under a judgment of this Court in the above-entitled action and that this claim amounts to _____ Dollars (\$ _____) with interest thereon from the _____ day of _____, 20____, and is made by virtue of the fact that said _____
(Your Name)

_____ is the owner of the equity of redemption and his/her said claim is next in priority after the Lien of the Plaintiff in this action.

Dated: _____, 20____

(Signature)

(Print your Name)

(Address)

(Telephone Number)

STATE OF NEW YORK COUNTY COURT
COUNTY OF SCHOHARIE

In the Matter of Foreclosure of _____ tax liens
by Proceedings in Rem Pursuant to Article Eleven
of the Real Property Tax Law by the County of
Schoharie.

NOTICE OF MOTION

Index No.: _____

Subject Parcel:

Town _____

Tax Map # _____

Address _____

MOTION MADE BY:

[Name of Claimant]

DATE, TIME and PLACE of
HEARING:

[At a date and time determined by the court]

SUPPORTING PAPERS:

Affidavit of _____ sworn to
on the ____ day of _____, 20__, along with
Supporting Exhibits.

RELIEF DEMANDED:

Order directing the release of surplus money on deposit
relative to _____
[Address of Property]

GROUND(S) for RELIEF:

REAL PROPERTY TAX LAW §1197

DATED: _____
Schoharie, New York

(Signature of Claimant/Attorney)

(Print Name)

(Address)

(Telephone Number)

In the Matter of Foreclosure of _____ tax liens by
Proceedings in Rem Pursuant to Article Eleven of
The Real Property Tax Law by the County of
Schoharie

AFFIDAVIT IN SUPPORT
OF MOTION

Tax Map # _____

_____, hereby affirms under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.:

1

5. On _____, _____, the subject premises was sold at public auction
Month and Day Year

to _____ for the sum of \$_____.
Purchaser Dollar Amount

6. The delinquent real estate taxes were paid in full from the proceeds, with the remainder of the sale proceeds deposited with the Schoharie County Treasurer.

7. Other than my claim, there are _____ other claims on file to the surplus monies. The County
No or Number
Clerk has issued a Certificate of Claims. See Exhibit C.

WHEREFORE, your deponent requests that the Schoharie County Treasurer be directed to pay to Petitioner, herein, the amount of \$_____ being ALL / A PORTION of the remaining
Dollar Amount Cross out one
surplus funds on deposit with the said Schoharie County Treasurer.

Dated:
Schoharie, New York

_____, 20_____
(Date signed)

(Signature)

(Print your Name)

(Address)

(Telephone Number)

STATE OF NEW YORK COUNTY COURT
COUNTY OF SCHOHARIE

Index No.: _____

In the Matter of Foreclosure of _____ tax liens by
Proceedings in Rem Pursuant to Article Eleven
of the Real Property Tax Law by the County of
Schoharie.

AFFIDAVIT OF SERVICE

Subject Parcel:

Town of _____

Tax Map # _____

STATE OF NEW YORK) COUNTY
OF SCHOHARIE) ss.:

_____, hereby affirms under the penalties of perjury under the laws
of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that
this document may be filed in an action or proceeding in a court of law:

On _____, _____, I served a copy of my Notice of Claim, Notice of Motion and Affidavit in
Support of my Motion upon the following interested parties by depositing a true copy of the aforesaid
documents in a postpaid properly addressed envelope in a post office or official depository under the
exclusive care and custody of the United States Postal Service, as follows:

1.) Schoharie County Treasurer
284 Main Street, Suite 128
PO Box 9
Schoharie, NY 12157

2.) Michael West, County Attorney
2668 State Route 7, Suite 2
Cobleskill, NY 12043

3.) See attached list for other lien holders and their respective mailing addresses that you are
required to serve.

Dated:

Schoharie, New York

_____, 20_____
(Date signed)

(Signature)

(Print Name)

At a Special Term of County Court
held in and for the County of
Schoharie on the _____ day of
_____, 20_____

PRESENT:
HON. _____,
SCHOHARIE COUNTY JUDGE

STATE OF NEW YORK COUNTY COURT
COUNTY OF SCHOHARIE

In the Matter of Foreclosure of _____ tax liens by
Proceedings in Rem Pursuant to Article Eleven of
The Real Property Tax Law by the County of
Schoharie.

**ORDER TO DISTRIBUTE
SURPLUS MONEY**

Index No.: _____

Subject Parcel:

Town _____

Tax Map # _____

Petitioner(s) _____, having brought a
[Name]
motion to distribute surplus money deposited with the Schoharie County Treasurer; and the County
Attorney by report dated _____ having consented to the relief requested; or this Court
[Date]
having issued an order of reference dated _____, and the Referee having issued their report
[Date]
on _____; and according to the [County Attorney's Report] or [Referee's Report] the amounts due
[Date]
as a result of the claim(s) for surplus monies are as follows:

Now, having read and considered the Notice of Motion, the Affidavit of _____
[Name of Affiant]

sworn to on _____, and exhibits annexed thereto, the Certificate of the Schoharie
[Date]

County Treasurer, showing that \$ _____ remains on deposit as surplus with respect to the
[Amount of surplus money]

subject premises; the Affidavit of Appearances or Notices of Claims of _____, sworn
[name of Affiant]

to on _____, and upon the [County Attorney's Report] or [Referee's Report] dated
[Date]

_____ showing that there are no other notices of claims to the surplus money and upon
all papers and proceedings had herein, and the motion having come on to be heard and due deliberation
having been had thereon, it is hereby

ORDERED, that the [County Attorney's Report] or [Report of the Referee] is confirmed; and it is
further

ORDERED that the Schoharie County Treasurer shall pay out and distribute the surplus money in
her hands to the credit of this action, after deducting the fees and commissions allowed to her by law as
follows and in the following order of priority:

First: That she pay to _____, Esq. Referee in this proceeding the sum of \$350.00 as
[Name]
their fees as such Referee;

Second: That she pay _____, the balance of the money \$ _____,
[Name] [Amount]
together with accrued interest.

Dated: Schoharie, New York

ENTER,

Hon. Ryan T. McAllister
Schoharie County Judge

STATE OF NEW YORK COUNTY COURT
COUNTY OF SCHOHARIE

In the Matter of Foreclosure of _____ tax liens
by Proceedings in Rem Pursuant to Article Eleven
of the Real Property Tax Law by the County of
Schoharie.

**ORDER OF REFERENCE
APPOINTING REFEREE IN
SURPLUS MONEY
PROCEEDING**

Index # _____

Subject Parcel:

Town of: _____

Tax Map #: _____

The Report of Surplus Auction Proceeds of the Schoharie County Treasurer dated _____ was duly filed in the Schoharie County Clerk's Office on _____ and it appearing from the report and form that there is a surplus of \$ _____ arising from the sale of the above-referenced subject premises at public auction, which was thereafter paid into the account of the Schoharie County Treasurer, and said Report having been confirmed by Decision and Order of this Court,

Upon reading and filing the Notice of Claim of _____, filed on _____, asserting a claim to the surplus moneys as a former owner of the equity or redemption or as a creditor of the former owner;

Now, upon application of _____ claimant, to adjudicate the claims of the respective claimants, it is hereby

ORDERED that _____ be and they hereby are appointed Referee to ascertain and report the amount due to Claimants noted above or any other person who has a lien on the surplus moneys, and to ascertain the priorities of liens, and that the referee report thereon with all convenient speed but not later than _____, so that a further order maybe made for the distribution of the surplus moneys as may be just.

The Referee "may inquire into and determine all questions of law and fact, and consider the equities of the claimants in a surplus money proceeding to the end that it may be decided in such proceedings finally and on the merits to whom such surplus moneys belong" (*Chase Manhattan Mortg. Corp. v Hall*, 18 AD3d 413, 414 [2d Dept 2005] [internal quotation marks and citation omitted]); and it is further

ORDERED that in the event any of the named parties other than the former homeowners shall claim the right to any portion of the surplus moneys, they shall submit detailed claims in

writing, under oath, to the Referee so appointed no later than _____; and it is further

ORDERED that should a hearing be necessary, the referee shall hold the hearing of the issue to be reported upon at his office or other location to be determined by him, at a date and time to be determined by him, but not later than _____, and it is further

ORDERED that the referee shall be paid the total sum of \$350.00 to be paid by each of the claimants in equal shares from the surplus funds, within 10 days after service of a copy of the referee's report upon the claimants' attorneys. If a hearing is necessary, the referee may seek an additional fee. In addition, any distribution of surplus funds shall be subject to the payment of the County Treasurer's administrative fee as set forth in §8010 of the NYS Civil Practice Laws and Rules.

The foregoing constitutes the Decision and Order of the Court.

Dated: _____
Schoharie, NY

ENTER:

Hon. _____
Schoharie County Judge

Pursuant to CPLR §5513, an appeal as of right must be taken within thirty days after service by a party upon the appellant of a copy of the judgment or order appealed from and written notice of its entry, except that when the appellant has served a copy of the judgment or order and written notice of its entry, the appeal must be taken within thirty days thereof.