

LAND OF LOW VALUE FORECLOSURE APPLICATIONS

INSTRUCTIONS FOR OBTAINING COMMISSIONER'S AFFIDAVIT

1. REVIEW VALIDITY OF TAX TAKING

A. Valid Assessment

- **Review for obvious assessment irregularities.**
- **Review “owner unknown” assessments.**
 - Assessments after 1971 must be authorized by Commissioner of Revenue.
 - If assessment made without authorization, must disclaim, have assessors obtain authorization and reassess tax, then retake.
- **Review assessments to heirs or estate of, or where source of title is old, for sole owner/tenant in common owner.**
 - Assessors should review probate records and confirm there is no heir/devisee of record that would invalidate assessment for year taken and any subsequent year certified into tax title account.

B. Valid Taking

- **Review taking was made before lien expired.**
- **Review taking was made according to statutory schedule.**
 - No earlier than May 2 of the tax year, demand is mailed to the assessed owner (assumes May 1 is the last day taxes are due). G.L. c. 60, § 16.
 - At least 14 days after the demand mailed, notice of the collector's intent to take is given in two ways by:
 - Advertising in a local newspaper, or if no local newspaper, in the county covering the municipality, and
 - Posting in two public places.
 - At least 14 days after the later of the notices, the taking is made. G.L. c. 60, §§ 42 and 53.
 - Posting date can be same or earlier than advertising date, so long as at least 14 days have elapsed between the demand and posting.

Example

Demand Made May 10

Land Advertised May 30

Notice of Intent to Take Posted May 28

- Within 60 days of the date of taking, the instrument of taking is recorded. G.L. c. 60, § 54.

- **Review taking for errors.**
 - Error must be substantial or misleading to invalid tax title.

C. Takings for Multiple Years

- **Review taking for first year to ensure it was based on valid assessment and taking.**

2. DETERMINE IF LAND OF LOW VALUE

- **Assessors must be able to certify that parcel qualifies as of date of application based on land of low value limit for the calendar year of the application. Limit found in [Informational Guideline Release \(IGR\)](#) issued each year.**
- **Assessors must be able to demonstrate that a parcel qualifies with specific information about its characteristics.**
- **Application must include most current assessed valuation and assessors' best judgment of fair cash value as of the application date.**

3. REVIEW COLLECTION ACTIVITIES

- **Collector should review sufficiency of notices (tax bills, demands, etc.) before submitting application.**
- **Collector must certify all subsequent year delinquent taxes to the account before the application is made.**

4. APPLY FOR AFFIDAVIT

Applications are submitted to DOR (Bureau of Municipal Finance Law) through Gateway (Under Miscellaneous Forms Tab). Treasurers must wait **at least 90 days** after the taking to apply to foreclose tax title on a parcel with a current value under the land of low value limit.

Complete Form 452A (Treasurer & Assessors Statements) for each parcel (See Exhibit 1 "Gateway Land of Low Value Application Instructions and Validation Rules.")

- The treasurer and assessors complete a "Parcel Information" record for each parcel on-line. They can enter and save information until the treasurer is ready to apply by submitting a group of parcels. The parcel information becomes the statement (Form 452A) the treasurer records along with the affidavit issued by the Commissioner. **(For example of how the system will generate the affidavit and statement, see Exhibit 2 "Land of Low Value Affidavit – Gateway Data Extraction" and Exhibit 3 "Land of Low Value Parcel Statement – Gateway Data Extraction.")**

- If due to passage of time or other reason, the treasurer cannot supply any of requested information, an explanation should be provided in the Treasurer's Comments section (or a document uploaded under § 1f "Treasurer Other file").
- For each parcel, the following supporting documents must be uploaded into the parcel information record (or right faxed to the Bureau at 617-660-0245). **Please name files being uploaded using letters and numbers only and if possible, with 20 or fewer characters. Do not use any punctuation or symbols.**
 - 1 Recorded instrument of taking;
 - 2 Affidavit related to title if applicable ("Scrivener's error" affidavit by person with personal knowledge of facts relevant to title that assist in clarifying chain of title, certified by attorney and recorded - G.L. c. 183, § 5B);
 - 3 Property record card;
 - 4 Map with parcel, with nearest right of way and any abutting parcels owned by taxpayer marked; and
 - 5 Owner unknown authorization letter if applicable.
- The collector must have certified delinquent taxes for all subsequent years into the tax title account. All years subsequent to the first year taken must be listed in § 4 of the parcel statement. If there are gaps in the certifications for any of the years listed, include an explanation (e.g., paid, abated, not assessed). **See Exhibit 1 "Gateway Land of Low Value Application Instructions and Validation Rules."**
- The assessors should explain reasons assessed valuation of parcel exceeded land of low value maximum for any years listed in the subsequent year taxes section of the statement (§ 4)(e.g., house on parcel destroyed by fire and demolished during FY____). **See Exhibit 1 "Gateway Land of Low Value Application Instructions and Validation Rules."**
- The treasurer and assessors (majority of board) must electronically sign their respective parts of the parcel information record.
 - A deputy or assistant assessor may sign on behalf of the board provided:
 - The board has authorized the deputy or assistant assessor to sign on its behalf, a document with that authorization is on file locally and a statement to this effect is included in the Comments section.
 - A majority of the board signs the actual statement for each parcel recorded with the affidavit issued by the Commissioner.
- Once parcel records are complete for all parcels being included in the application, the treasurer submits each parcel, which locks the parcel data.
 - Gateway has automatic edits for completeness and logical chronology of events that run during the submit function.

- Before submitting, the treasurer must check for inconsistencies with the supporting documents. The statements being recorded with the affidavit issued by the Commissioner must be accurate, complete and consistent with other recorded documents.
 - **Discrepancies between parcel records and supporting documents, such as different demand, posting or taking dates, legal references, parcel descriptions, etc., cause most of the delays in approving applications.**
- Treasurers may notify the Bureau by email (DLSLAW@dor.state.ma.us) that an application for a LOLV affidavit with # of parcels has been submitted through Gateway.
- **The Bureau will notify the treasurer by email of any discrepancies or issues found in the initial review and when to “Batch Submit” the application.**
- Once the application is approved and affidavit generated, the treasurer will receive an e-mail notice of the parcels in the affidavit. The treasurer must then print out the Form 452A for each parcel (in parcel record, click on “Print” in lower right corner to bring up pdf). The treasurer and a majority of the board of assessors must then sign their respective portions of the statements. The signed affidavit will follow in the mail. Upon receipt, the treasurer must record the signed affidavit and statements.
- The treasurer should complete the foreclosure by auction as soon as possible, but before the affidavit expires. The affidavit expires 2 years from the date generated.

Exhibit 1

GATEWAY LAND OF LOW VALUE FORECLOSURE APPLICATION Instructions and Validation Rules

Please name files being uploaded using letters and numbers only and if possible, with 20 or fewer characters. Do not use any punctuation or symbols.

SECTIONS 1-5 – Completed by Treasurer

Section 1. Tax Taking (Documentation <u>recorded</u> instrument of taking)		
1a	Fiscal Year Taxes Taken	If taking was for multiple years, insert earliest FY only
1b	Date of Taking	No earlier than June 1 of FY taxes taken in 1a <u>and</u> at least 14 days after later of 3c and 3f
1c	Instrument of Taking Signed By	
1d	Date Instrument of Taking Recorded	No earlier than 1b <u>and</u> no later than 60 days after 1b
1e	Recording Reference: Place Instrument Recorded If Recorded Land If Registered Land If Devised or Inherited	_____ Book _____ Page _____ Certificate of Title No. _____ Document No. _____ Volume _____ Page _____ Probate Reference _____ (Place <u>and</u> 1 reference type must be completed)
1f	Supply Recorded Instrument of Taking to upload	Must upload (or Fax 617-660-0245)
	Select Treasurer Other file to upload	May upload (or Fax 617-660-0245) other relevant documents (e.g., G.L. c. 183, § 5B affidavit)

Section 2. Tax Assessment for Year Taken		
2a	Assessed Owner(s)	
2b	Title Reference Place Title Reference Recorded If Recorded Land If Registered Land If Devised or Inherited	_____ Book _____ Page _____ Certificate of Title No. _____ Document No. _____ Volume _____ Page _____ Probate Reference _____ (Place <u>and</u> 1 reference type must be completed)
2c	Property Location and Description Street Number Street Alpha Street Name	_____ _____ _____ (e.g., "A" "Rear") _____
2d	Assessors' Map Identification for Property	
2e	Property Description	
2f	Date Tax Committed	If taking was for multiple years, insert commitment date of tax for earliest FY only

Section 3. Collection Notices		
3a	Date Demand Mailed	If taking was for multiple years, insert date demand mailed for earliest FY only <u>and</u> in Comment section (or document unloaded under 1f “Select Treasurer Other file to upload”) provide dates demands sent for other years (unless those dates are stated in Instrument of Taking) No earlier than May 2 of FY taxes taken in 1a
3b	Person Demand Made On	
3c	Date Notice of Taking Advertised	At least 14 days after 3a
3d	Newspaper Advertised	
3e	Property Description in Advertisement	
3f	Date Notice of Taking Posted	At least 14 days after 3a
3g	1 st Place Notice of Taking Posted	
3h	2 nd Place Notice of Taking Posted	

Section 4. Subsequent Taxes and Assessment				
Fiscal Year	Assessed Owner(s)	Assessed Valuation	Date Certified	Amount Certified
	List <u>all</u> years since year of taking. If gap in certification for any year listed, explain in this column (e.g., paid, abated, not assessed). If taking for multiple years, start list with second year taken. Insert date of taking in “Date Certified” column for all years in taking.			

(This field is expandable)

Section 5. Owner		
5a	Does taxpayer own any other parcels within municipality?	Yes ____ No ____ If “Yes,” must answer 5b “Yes” or “No” If No, 5b and 5c defaults to “Not Applicable”
5b	If 5a yes, is taxpayer current on taxes assessed on those parcels?	Yes ____ No ____ Not Applicable ____ If “Yes,” must answer 5c “Yes” or “No” If “No,” 5c defaults to “Not Applicable”
5c	If 5b yes, were tax bills for those parcels mailed to same address as bill and demand for this property?	Yes ____ No ____ Not Applicable ____
5d	If 5c no, provide mailing address used for this property, state whether bill or demand was returned as undeliverable and if yes, explain action taken when returned.	If 5c “No,” must complete Leave blank otherwise

COMMENTS: Use this section to explain discrepancies between recorded instrument of taking and information that will appear on parcel statement to be recorded with LOLV affidavit, *e.g.*, G.L. c. 183, § 5B affidavit recorded at _____ to correct typographical error in _____, or Map ___ Parcel ___ now identified as _____.

If taking for multiple years, use this section to provide dates demands sent for years other than first year taken (unless those dates are stated in Instrument of Taking).

Alternatively, may upload document with explanations or demand dates under 1f “Select Treasurer Other file to upload.”

SECTION 6 – Completed by Assessors

Section 6. Supply Property (Documentation Property Record Card and Map with parcel, nearest right of way and abutting parcels owned by taxpayer marked)

	Select Property Record file to upload	Must upload (or Fax 617-660-0245)
	Select Map file to upload	Must upload (or Fax 617-660-0245)
	Select Owner Unknown Authorization/other to upload	Must upload (or Fax 617-660-0245) if 2a Owner Unknown, May upload (or Fax 617-660-0245) other relevant documents
6a	Assessed Valuation (most recent)	January 1, _____ \$ _____
6b	Fair Cash Value (as of application date)	_____, _____ \$ _____ Must be equal/less than LOLV limit for year
6c	Property Classification Code (most recent)	January 1, _____ _____
6d	Zoning What is zoning classification? What uses are allowed? What are minimum dimensions for development?	_____ _____ _____
6e	Parcel Dimensions What is the area in square feet or acres? What is the frontage in feet?	_____ square feet/acres _____
6f	Access Is the parcel landlocked? Is the parcel part of paper subdivision? If yes to either, what is the distance to the nearest right of way?	Yes ___ No ___ Yes ___ No ___ _____ (Required if “Yes” to either)
6g	Other Legal Development Restrictions Is any land protected watershed or wetlands? Is any land subject to a recorded permanent restriction on its use? If yes to either, or land is subject to other legal restriction on use, describe the restriction and percentage of land area it covers.	Yes ___ No ___ Yes ___ No ___ _____ (Required if “Yes” to either)

6h	<p>Topography</p> <p>Does the parcel contain a water body (e.g., lake, pond, marsh)?</p> <p>Does the parcel have a steep slope?</p> <p>Does the parcel contain ledge?</p> <p>If yes to any, or other adverse physical condition exists on parcel, describe the condition and percentage of land area it covers.</p>	<p>Yes ___ No ___</p> <p>Yes ___ No ___</p> <p>Yes ___ No ___</p> <p>_____ (Required if “Yes” to any listed condition, may be used for other condition)</p>			
6i	<p>Development Status (Choose any one option)</p> <p>Is the parcel developable (meets zoning requirements or buildable under grandfather provision)?</p> <p>Is the parcel potentially developable (may be buildable with special permit, acceptable percolation test or order of conditions)?</p> <p>Is the parcel undevelopable (not buildable due to zoning, other development restrictions or physical characteristics)?</p>	<p>Yes ___ No ___</p> <p>Yes ___ No ___</p> <p>Yes ___ No ___</p> <p style="text-align: center;">Must choose 1</p>			
6j	<p>Improvements</p> <p>Are there buildings on the parcel?</p> <p>Are there other improvements on the parcel?</p> <p>If yes to either, describe them.</p>	<p>Yes ___ No ___</p> <p>Yes ___ No ___</p> <p>_____ (Required if Yes to either)</p>			
6k	<p>Abutting Land</p> <p>Has a land of low value foreclosure application been submitted or approved for abutting land?</p> <p>Does taxpayer own any separately assessed contiguous land?</p> <p>If taxpayer owns separately assessed contiguous land, provide most recent assessed valuation(s) of all parcels that constitute contiguous land.</p>	<p>Yes ___ No ___</p> <p>Yes ___ No ___ (Answer Yes if any part of parcel touches another parcel owned by taxpayer, including land separated by a public or private way or waterway, e.g., land across the road that would touch but for the road. If Yes, must complete next fields.)</p> <table border="1" data-bbox="878 1329 1479 1444"> <tr> <td data-bbox="878 1329 1182 1444">Assessors Map Identification</td> <td data-bbox="1182 1329 1479 1444">Assessed Valuation</td> </tr> </table>		Assessors Map Identification	Assessed Valuation
Assessors Map Identification	Assessed Valuation				

COMMENTS: Use this section to explain discrepancies or variations in assessed valuation over the years the property has been in tax title, e.g., where valuation exceeded land of low value threshold in prior years and has been reduced to valuation below that threshold.

If taxpayer owns separately assessed contiguous land (6k), use this section to explain whether if merged into single parcel for assessment the dimensions of that parcel would result in a buildable lot, i.e., one that does not meet the land of low valuation limit.

If assessed to individuals, estate or heirs, use this section to confirm that probate records have been reviewed before the application was submitted to verify that the assessment was valid for the fiscal year taken and all subsequent years listed in the statement.

Alternatively, may upload document with explanations or confirmation under “Select Owner Unknown Authorization/other” to upload.

Gateway On Behalf of Rules - If signing on behalf of board of assessors, include statement to that effect here, e.g., “Authorized to sign by BOA. Document bearing assessors authorization on file.”

Exhibit 2

This affidavit must be filed for record or registration

State Tax Form 452

**COMMONWEALTH OF MASSACHUSETTS
Affidavit To Foreclose Tax Title - Land of Low Value
General Laws Chapter 60, Section 79**

To _____, Treasurer of _____

I, **Mark Nunnely**, Commissioner of Revenue, hereby states that in my opinion (1) the value of each parcel of land held by the _____ of _____ under an instrument of taking or a tax title deed listed below is insufficient to meet the taxes, interest and charges, and all subsequent taxes and assessments thereon, together with the expenses of a foreclosure of the rights of redemption under General Laws Chapter 60, § 69, (2) the value of none of these parcels exceeds **\$20,920**, and (3) the facts essential to the validity of the tax title on each of these parcels have been adequately established. The attached Statement Relative to Tax Title submitted under General Laws Chapter 60, § 79 for each parcel is made a part of this affidavit.

NO.	NAME OF PERSON ASSESSED IN THE YEAR OF THE TAX FOR WHICH THE LAND WAS SOLD OR TAKEN LOCATION OF PARCEL	Year of Tax for which Land was Taken or Sold	Date of Taking or Sale	INSTRUMENT OF TAKING OR TAX TITLE DEED		
				RECORDED		REGISTERED
				Book	Page	Certificate of Title No.
	<u>2a</u> <u>2c</u> <u>2d</u>	<u>1a</u>	<u>1b</u>	<u>1e</u>	<u>1e</u>	<u>1e</u>

Signed under the pains and penalties of perjury this _____ day of _____, _____.

Sean R. Cronin
On behalf of COMMISSIONER OF REVENUE

THE COMMONWEALTH OF MASSACHUSETTS

Suffolk County, ss.

Date

On this _____ day of _____, _____, before me, the undersigned notary public, personally appeared **Sean R. Cronin**, proved to me through satisfactory evidence of identification, based on my personal knowledge of **him**, to be the person whose name is signed on the preceding document, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of **his** knowledge and belief.

James F. Crowley

My commission expires _____

Exhibit 3

This statement must be filed for record or registration with State Tax Form 452

State Tax Form
452A

COMMONWEALTH OF MASSACHUSETTS

City/Town of _____

Office of the Treasurer

**STATEMENT RELATIVE TO TAX TITLE - LAND OF LOW VALUE
General Laws Chapter 60, Section 79**

The validity of the tax title on the parcel of land described below is established by the following information from the records of the assessors and collector of taxes and the parcel's valuation is established by the information in the certification of the assessors contained in this statement.

LAND WAS TAKEN OR SOLD FOR FISCAL YEAR 1a TAXES

Taxes Assessed to 2a

Title Acquired by Deed Recorded/Registered with 2b (place)

Book 2b Page 2b Certificate of Title No. 2b Document No. 2b Registration Volume 2b Page 2b

Other source of title 2b

Property Address 2c

Assessors' Map Identification for Property 2d

Tax Committed to Collector of Taxes on 2f

Demand Made on 3b

on 3a

Newspaper Land Advertised in 3d

on 3c

Property Description as Appearing in Advertisement 3e

Date Notice of Taking/Sale Posted 3f

1st Place Notice of Taking/Sale Posted 3g

2nd Place Posted 3h

Taking Made on 1b

Instrument of Taking Signed by Collector of Taxes 1c

Instrument of Taking Recorded on 1d

with 1e (place)

Book 1e Page 1e Certificate of Title No. 1e Document No. 1e Registration Volume 1e Page 1e

Subsequent Taxes and Assessments 4

Year	Date Certified	Amount Certified

Under the pains and penalties of perjury, I declare that to the best of my information and belief, this statement is true, correct and complete.

Date _____, _____

Signature of Treasurer

Printed/Typed Name of Treasurer

Assessors' Certification – Land of Low Value

Assessed Valuation (most recent) January 1, _____ \$ _____ **6a**

Fair Cash Value (as of application date) _____, _____ \$ _____ **6b**

Zoning 6d

- What is the zoning classification?
- What uses are allowed?
- What are the minimum dimensions for development?

Parcel Dimensions 6e

- What is the area in square feet or acres? _____
- What is the frontage in feet? _____

Access 6f

- Is the parcel landlocked? _____
- Is the parcel part of paper subdivision? _____
- If yes to either, what is the distance to the nearest right of way? _____

Other Legal Development Restrictions 6g

- Is any land protected watershed or wetlands? _____
- Is any land subject to a recorded permanent restriction on its use? _____
- If yes to either, or land is subject to other legal restriction on use, describe the restriction and percentage of land area it covers. _____

Topography 6h

- Does the parcel contain a water body (e.g., lake, pond, marsh)? _____
- Does the parcel have a steep slope? _____
- Does the parcel contain ledge? _____
- If yes to any, or other adverse physical condition exists on parcel, describe the condition and percentage of land area it covers. _____

Development Status 6i

- Is the parcel developable (meets zoning requirements or buildable under grandfather provision)? _____
- Is the parcel potentially developable (may be buildable with special permit, acceptable percolation test or order of conditions)? _____
- Is the parcel undevelopable (not buildable due to zoning, other development restrictions or physical characteristics)? _____

Improvements 6j

- Are there buildings on the parcel? _____
- Are there other improvements on the parcel? _____
- If yes to either, describe them. _____

Abutting Land 6k

- Has a land of low value foreclosure application been submitted or approved for abutting land? _____
- Does taxpayer own any separately assessed contiguous land? _____

Under the pains and penalties of perjury, I declare that to the best of my information and belief, this statement is true, correct and complete.

Signature of Board of Assessors

Printed/Typed Names of Board of Assessors

Date _____, _____