



**ULSTER COUNTY
COMPTROLLER'S AUDIT
OF DELINQUENT REAL
PROPERTY TAX
COLLECTION**

2023

**Office of the
Ulster County Comptroller
March S. Gallagher**



ULSTER COUNTY OFFICE OF THE COMPTROLLER

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March 29, 2023

Ulster County Executive Jen Metzger
Ulster County Legislative Chair Tracey Bartels
244 Fair Street
Kingston, NY 12401

Dear Chair Bartels and Executive Metzger,

Attached is a draft copy of our audit report on the internal controls over delinquent real property tax collections in Ulster County. I would like to note that we have been working with the Administration to gain full access to the County's delinquent property tax system (referred to as TRUT throughout this report), and, due to various weaknesses identified throughout the audit and detailed in the attached report, we are continuing our audit work as it relates to real property tax collections and the reconciliation between various systems. This report contains our initial findings and recommendations. Our office is working to further test the accuracy and completeness of real property tax revenues collected by the County. The County is in the process of implementing new delinquent tax software that will have audit capability. We will share with you our findings as they relate to the reconciliation of that data over a historical period when additional testing is complete.

We also note that for an audit to be effective, it is paramount that information and documentation be made available for review. Throughout the audit our office encountered difficulties obtaining documentation or information about the real property tax process. Because of this, we would like to emphasize our recommendation to adopt an organized and well documented work-flow process for the foreclosure procedure in general, and as it relates to the withdrawals of properties from foreclosure specifically. The collection of this data and the supporting documentation included would greatly improve the County's ability to manage and analyze this process. The implementation of a well-organized process and more effective and efficient software will make marked improvements in internal controls.

We look forward to working with the Executive and the County Legislature to implement crucial improvements to ensure proper controls over one of the County's largest revenues to safeguard taxpayer interests.

Yours truly,

A handwritten signature in blue ink that reads 'March S. Gallagher'.

March Gallagher
Ulster County Comptroller

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ULSTER COUNTY OFFICE OF THE COMPTROLLER

Audit of Internal Controls Over Delinquent

Real Property Tax Collections

comptroller.ulstercountyny.gov

Released March 2023

Objectives

The objectives of our audit were to:

- Conduct a review of the Request for Proposal number UC22-004, Tax Collection & Payment Software
- Determine whether appropriate controls exist over cash tax payments received by the County and over the application of interest and penalties on late payments
- Determine whether appropriate controls exist over changes to the Property Tax System (TRUT) including additions, deletions, and abatements
- Review the reconciliation process between the County's Property Tax System (TRUT) and all other County systems including the primary financial system (NWS)
- Review the operational performance measures that assess the effectiveness of the collection efforts including individual performance measures, payment plans and aging reports

Executive Summary: Why this review is important

The County is responsible for the enforcement of real property taxes in accordance with New York State Real Property Tax Law (RPTL). The County's annual real property tax revenues of approximately \$76 million annually are a vital revenue source needed to support County operations. Weaknesses identified in the internal controls over the County's real property tax system result in financial loss to taxpayers when the County is unable to recoup uncollected taxes. As one of the County's most essential duties that supports one of the County's largest revenues, the establishment of adequate controls by the Executive and the Legislature is paramount.

As a result of our audit, the County has recouped more than \$380k in interest overpaid to the Kington City School District (KCS D) [see Appendix A], foreclosed on a property with nearly \$11 million in tax arrears, and developed a new process for paying school taxes on County owned properties, reducing future costs related to interest for late payments.

What the Comptroller's Office found

Our primary findings were:

1. Transactions recorded in the unpaid tax system (TRUT) do not agree to the County's financial system as information systems are not integrated or reconciled.
2. Properties were inappropriately withdrawn from the County's foreclosure process.
3. The County's untimely property tax payments resulted in unnecessary interest and penalties of at least \$269,000.
4. The County made an error in the calculation of interest owed on tax foreclosed properties resulting in overpayment of more than \$380,000.

The County lacks internal controls and effective policies and procedures as it relates to its responsibilities over real property tax collections, the foreclosure process in general, the withdrawal of properties from foreclosure, and the calculation and payment of taxes on delinquent properties. Multiple properties did not have sufficient justification and documentation to support the withdrawal of the property from the foreclosure process. The County did not foreclose on withdrawn properties, or collect any tax revenues, resulting in the inability for County taxpayers to recoup what is owed while interest and penalties continued to accrue. Since the market value of certain properties can be significantly lower than the amount of taxes and interest owed, the eventual sale or transfer may result in a significant loss, and reduction of the County's General Fund Balance. The County has made school district and towns "whole" by paying taxes on these properties for several years, shifting the burden of those taxes from town and school district taxpayers to County taxpayers. The County's delays in foreclosing on and auctioning the properties has allowed the property owners to continue to use the properties tax free and leaves properties with real and perceived hazards to blight the community. Furthermore, the lack of internal controls has resulted in the County accruing unnecessary interest and penalties and overpaying the KCS D for interest owed by the County.

Comptroller's Office Recommendations

We recommend that the County reconcile and document transactions between the tax collection system (TRUT) and the County's financial system (NWS) and run prior period transaction summaries when reconciling. We also recommend that the County Executive and Legislature adopt a foreclosure property management policy to ensure timely payment of taxes owed by Ulster County, and establish what constitutes an appropriate withdrawal including supporting documentation requirements. The policy should require that the County foreclose on properties as soon as reasonably practicable after consideration of the appropriate withdrawal process to maximize revenue and return property to the active tax roll. Furthermore, the County should pay taxes due on County owned property as soon as possible to limit interest expenses incurred and losses realized on property transfers. The County should develop a system for tracking, monitoring, and accounting for County owned properties and the related property transfers to ensure timely and accurate payments.

Findings

Finding

Condition:

Transactions recorded in the unpaid tax system (TRUT) do not agree to the County's financial system as information systems are not integrated or effectively reconciled.

At present, there are not effective controls in place to ensure that transactions made in TRUT are reflected in NWS, as the Department only reconciles current month data. Therefore, if any entry for payment were made to a prior period, the reconciliation process would not necessarily identify the transaction.

NOTE: At the time this draft audit was provided to the auditee, the Comptroller's Office still had inadequate access to the TRUT system after repeated requests that dated back to March 29, 2022. Following management's review of the audit coupled with the abrupt resignation of the Commissioner of Finance the Administration has since provided our Office with assistance and full access to the TRUT system. The Office of the Comptroller is reviewing the accuracy of the information contained within that system and will report subsequent findings. Limiting TRUT access to a single person or department represents a serious internal control risk.

Effect:

The current reconciliation process does not ensure that all entries made in the TRUT system are reflected in the County's financial system making it impossible to determine if real property tax collections are complete and accurate. Adjustments made to the TRUT system outside of the reconciliation window would not necessarily be identified, and it is possible for properties to be marked as paid without reflecting the corresponding receipt in NWS. The present weaknesses in internal controls could result in unidentified theft or error.

Cause:

The Department of Finance lacks an effective process to review the reconciliation of the tax software to the County's financial system.

The County uses an ancillary reporting system called TRUT, to record and track delinquent property tax collections. The activity recorded in the TRUT system must be manually entered in the County's financial system, New World Systems ("NWS"). Due to limitations of the TRUT system, there are often differences between the entries made in TRUT, and the County's primary financial system. For instance, properties that have installment agreements are not marked as "paid" within the TRUT system, while the taxes are being paid in monthly installments, tracked in a separate Access database. These properties are marked paid when the contract is complete, and therefore the payment information between the two systems never agrees for properties paying taxes through an installment agreement. Because the information is manually entered in three separate systems, and the information does not agree, regular reconciliations are necessary to ensure that errors are identified.

While the Department of Finance originally provided some documentation for a November 2022 reconciliation¹ the Comptroller requested, but did not receive reconciliations from January 1st, 2020, through February 28th, 2022, in a timely manner. The documents that were eventually provided were Excel files that did not identify the system or source of the information, contained no dates or time stamps as to when the information was gathered and contained no approval signature by whomever reconciles the tax system, making it unknown if appropriate reconciliations were being performed on a regular basis.

[1] Materials for a single month's reconciliation were provided on January 9th, 2022, upon our third request. Reconciliations were first requested on March 29, 2022. Department of Finance provided access to reconciliations on February 7, 2023. These will be reviewed in the coming months.

Criteria:

The Commissioner of Finance is responsible for all duties that relate to the enforcement of real property taxes and the collection of County revenues in general. Ulster County Charter § C-53 (B)(1)-(3). Additionally, as the Chief Accounting Officer of the County, it is the Commissioner's responsibility to accurately record and maintain the financial records. Ulster County Charter § C-53 (B)(6), (8), (9).

Furthermore, according to the County's Standard Code of Conduct,

"It is the obligation of the County to ensure that assets and liabilities are accounted for in compliance with all tax and financial requirements, generally accepted accounting principles, and the established accounting and financial policies of the County. To help ensure that this occurs, the County endorses the recommendations of the Government Accounting Standards Board (GASB).

The financial reporting system for the County must contain accurate entries that reflect all items of income and expense, all assets and liabilities, and all financial transactions.

To meet this obligation, the County relies on Participant truthfulness and integrity in accounting practices.

Participants should never engage in any arrangement that will or may result in false, artificial, or misleading entries in any accounting records."

Recommendation 1:

The County should work to integrate the systems used to monitor, track, and account for delinquent property taxes and ensure agreement between all financial systems, including the implementation of the new system, which should integrate with NWS where possible.

Recommendation 2:

The County should regularly reconcile the transactions made in TRUT to the County's NWS financial system to ensure accurate and complete recording of real property tax transactions.

The Department of Finance should run prior period transaction summaries when reconciling, to ensure that no transactions have been recorded outside of the reconciliation window or lock prior periods from user entry once a specific period has been reconciled.

Completed reconciliations should be documented and saved in a static (pdf) file form with any supporting documentation used in its preparation. Supporting documents include TRUT transaction reports, NWS transaction reports, and Access database reports summarizing installment agreement payments. All reports should be printed with relevant information including specific report, system and user information such as report title, parameters, run date, user performing report, etc. The reconciliations should be signed by the staff preparing them and again by a supervisor reviewing the work.

Finding 2

Condition:

Properties were inappropriately withdrawn from the County's foreclosure process.

Our audit tested all properties from the 2017 foreclosure action because it was the latest year for which the foreclosure process could be complete. In 2017 there were 2,347 properties in the original eligible for foreclosure list filed with the County Clerk. Of those, 1,715 were redeemed and 578 of them were withdrawn from the action, while 54 properties had no action and would be subsequently included in the County's summary foreclosure action for 2017 delinquent taxes.

2017 Properties Eligible For Foreclosure	
Redeemed	1,715
Withdrawn	578
No Action	54
Total	2,347

The Comptroller's Office reviewed every withdrawal made from the 2017 foreclosure action, reviewing the withdrawal form filed with the Ulster County Clerk, and any supporting documentation available to support the withdrawal action.

Of the 578 properties withdrawn from the 2017 foreclosure proceeding, the reasons provided for withdrawal can be categorized in the following chart:

2017 Property Withdrawal by "Reason"	
Parcel paid/Deeded back to owner	122
Sold at public auction	234
Sold at private sale	24
Bankruptcy	25
Tax has been cancelled	4
Hazardous/Significant risk of liability	30
Installment agreement	120
Legal impediment	4
Transferred to Local Government	6
Transferred to LDC	5
No Form Provided/ Reason Unknown	4

After cataloging and reviewing the properties withdrawn, we chose to more closely examine those properties withdrawn for hazardous/liability, legal impediment, cancellation of taxes, or for which there was no withdrawal form located. Please see **Appendix B**, for a complete **Schedule of Properties Reviewed** for specific details on each property, and the supporting documentation provided in response to our audit request.

Hazardous Properties

The 2017 withdrawal testing included the review of 30 properties withdrawn as hazardous (that is, alleged to have a liability that exceeded the value) to determine if the backup documentation supported that conclusion. We identified that most of the properties had missing documentation and, in many cases, had no specific justification as to the hazardous classification. A summary of our observations is outlined in the following list and can be explained in greater detail in the Schedule of Properties attached as Appendix A of this report.

Our review of hazardous properties identified the following issues for many of the properties:

1. No building Inspector report provided (per the existing written procedures). Building inspector reports were unavailable for 18/30 properties, while 10/30 of the properties had building inspectors stating there was no reason not to foreclose.
2. No inspection report provided by the Department of Public Works, including pictures of the property (described as part of the process of evaluation). Only 2/30 properties included a documented review by the DPW.
3. Environmental liabilities noted lacked supporting DEC documentation (such as reference to spill numbers or any evidence as to the hazardous status per the DEC). Only 1 property had documented communication of consultation with the County Department of Environment that referenced NYS DEC spill information.
4. Outdated or insufficient documentation provided
 - a. Some withdrawals reference contamination at "nearby parcels" without further substantiation
 - b. Some reference environmental concerns that have long been closed/ cleared by DEC
 - c. Some do not reference the specific environmental concern at all
 - d. Some include no supporting documentation or justification

We would like to note that 60% or 18 of the 30 properties deemed hazardous in the 2017 action still remained on the hazardous uncollectible list as of 2022. Six of the 30 properties were withdrawn because they were waterfront or had lake rights and several of those were not water adjacent. Despite references throughout the provided documentation to decisions made by the County Attorney, none of the 30 property records contained an opinion from the County Attorney's office supporting withdrawal. Three of the 30 properties (10%) were identified as occupied on at least one verification report.

The audit identified one property that had been withdrawn from the foreclosure process due to potential hazardous liabilities, with delinquent taxes now in excess of \$11 million, with unpaid tax bills dating back to 2011. Upon further investigation, the Comptroller's Office determined that this property did not qualify for withdrawal from the County's foreclosure process and should have been foreclosed by the County to recoup any unpaid taxes. We issued that portion of the audit in June 2023 as a separate report: [Comptroller's Review of 701 Grant Avenue](#), available on the Comptroller's website.

During the review of the 701 Grant Avenue property, it had come to the Comptroller's Office's attention that previous versions of hazardous listing the Office was regularly provided each year had failed to list this specific property for multiple years including 2015, 2016, 2017 and 2018. Additionally, while tying out the financial records to the newly updated hazardous lists provided by the County Executive's Office to the documentation attached within the County's financial system the schedule of "Deferred Tax Analysis" had a different final hazardous number when compared to what was originally provided.

Since multiple versions of the hazardous lists exist, and were circulated, we are uncertain which information is accurate, or was made public, shared, and reviewed. Additionally, the presence of multiple lists and versions of the same documentation presents a level of uncertainty in process for recording and maintaining these lists. This ultimately results in the potential for misstatements in the financial information reported and the information cannot be reasonably relied upon. As a result, we cannot provide any assurance that appropriate controls exist or that the amount set aside as uncollectible revenue is true and accurate.

Legal Impediment

Four properties had been withdrawn due to legal impediments. Backup documentation did not demonstrate the presence of actual legal impediments for three of the four properties. One property contained a reference to the legal impediment of failure of service with no supporting documentation. Two properties had handwritten references to communications with the County Attorney without a specific description of the potential legal impediment. One property undergoing foreclosure by the Internal Revenue Service was appropriately withdrawn.

Cancellation of Tax

Three of the four properties withdrawn for cancellation of tax had incomplete backup documentation of an application for correction of the tax rolls (RP-554) or a refund or credit of real property tax (RP-556) with a blank section for the approval of the tax levying body, making it unclear if these corrections or credits were approved by the appropriate body. Additionally, in the case of the final property withdrawn for cancellation, the town tax collector misapplied a payment to the wrong parcel number and then issued the payment back to the payee. No documentation of payment was ever provided, and it appears the property taxes for that year went unpaid due to this error.

No Withdrawal Form Located

There were four properties that were marked as withdrawn from the foreclosure eligible list, for which no withdrawal form was included in the publicly available court documents or provided in response to this audit. At present, we have no withdrawal form to justify the withdrawal and are unaware as to the reason for withdrawals.

Bankruptcy

The audit identified 25 withdrawals related to bankruptcy cases. The Comptroller's Office found supporting documentation of a bankruptcy case for each of these properties by searching property owner's name in the federal court system PACER for bankruptcy records. Of the 25 properties withdrawn for bankruptcy reasons, 19 of those properties were subsequently redeemed.

Effect:

The County has not foreclosed on several properties that were eligible for foreclosure these delinquent tax years and has lost potential revenue as a result. Because the County did not foreclose on properties, tax arrears that totaled at least \$11 million dollars have accrued, which will likely result in a loss to taxpayers once sold. Allowing properties to forgo foreclosure without paying tax while interest and penalties accrue reduces the likelihood that the County will recoup all of the taxes owed.

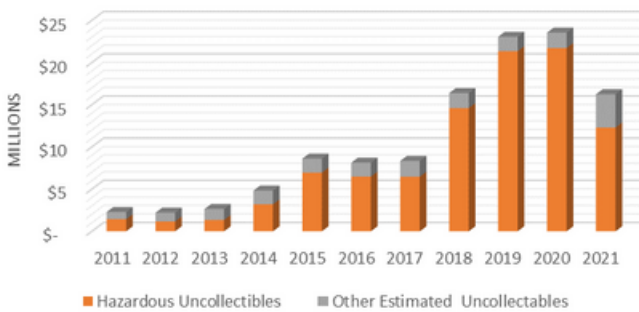
Amounts for back taxes related to properties classified as "Hazardous/Uncollectible," are recorded as uncollectible to offset expected revenues. The amount recorded as uncollectible for these properties ballooned to \$21 million countywide in 2019 as significant value large properties such as the former IBM campus and 701 Grant Avenue became eligible for foreclosure and the County took no action on them.

Hazardous/uncollectible properties have represented the majority of the total uncollectible taxes over the past ten years. At its height in 2019, the total hazardous tax amount represented 93% of the total allowance for uncollectible taxes, or \$21 million of the \$23 million total. This was largely related to properties located at the former IBM site also known as "TechCity," the majority of which are currently being developed as ipark87.

As of December 31, 2021, the County's Allowance for Uncollectible taxes was \$16.2 million, of this amount \$12.3 million represented various hazardous uncollectible properties, \$10.1 million related to the property at 701 Grant Avenue.

Year	Hazardous/ Uncollectible Properties	Total Allowance for Uncollectible	Hazardous % Uncollectible Taxes
2011	\$ 1,436,561	\$ 2,274,164	63%
2012	\$ 1,177,492	\$ 2,204,486	53%
2013	\$ 1,340,000	\$ 2,644,613	51%
2014	\$ 3,197,688	\$ 4,824,894	66%
2015	\$ 6,955,857	\$ 8,615,736	81%
2016	\$ 6,479,641	\$ 8,136,992	80%
2017	\$ 6,469,934	\$ 8,339,912	78%
2018	\$ 14,603,177	\$ 16,378,740	89%
2019	\$ 21,351,191	\$ 23,042,961	93%
2020	\$ 21,722,820	\$ 23,544,593	92%
2021	\$ 12,292,184	\$ 16,241,311	76%

Allowance for Uncollectible Taxes



Please see **Appendix C** for the list of properties deemed Hazardous Uncollectible as of 2021 provided by the County Executive in response to our audit.

We would again like to note that since the value of these properties are typically significantly lower than the amount of taxes and interest owed, the eventual sale or transfer will typically result in a significant loss, and reduction of the County's General Fund Balance.

Cause:

Ulster County lacks formal policy to govern the foreclosure process, including requiring the Department of Finance to thresholds justifying withdrawal under various sections of Article 11. Current procedures do not document the justification of withdrawal of certain properties. Additionally, there is no formal reporting to, or approval by, the County's Legislature for the withdrawal of properties from foreclosure for specific reasons like hazardous/uncollectible properties.

Removal of properties from the foreclosure process is a decision not to enforce real property tax and as such should be presented and approved by the legislative body to ensure there is appropriate review and oversight over this process. It is the County's legal obligation to enforce real property tax. Decisions not to enforce tax should be made with extreme care and scrutiny to ensure equitable application of the law and the safeguarding of taxpayer interests. These decisions should include review and approval by the Legislature, as the primary governing and tax levying body.

Criteria:

New York State RPTL Article 11 § 1102 identifies the County Commissioner of Finance as the tax "enforcing officer."

RPTL §1138(1)(a)-(h) sets out grounds for withdrawal including legal impediment, tax cancellation, bankruptcy, significant risk of substantial liability, entering into an installment agreement, an extended redemption period for residential or farm property, an extended redemption for military, or the tax lien has been sold.

RPTL §1138 also states "Upon the withdrawal from foreclosure of any parcel of real property, the enforcing officer shall issue a certificate of withdrawal, setting forth the facts which render the parcel eligible for withdrawal from foreclosure. The certificate shall be filed with the clerk of the governing body of the tax district."

RPTL 1138 does not describe the type of facts required to demonstrate the parcel is eligible for withdrawal or speak to the appropriate supporting documentation.² The forms utilized by the County do include a space to provide the specific facts related to the properties' withdrawal. Based on our review of 2017 withdrawals, this section of the form was often blank, and without supporting documentation. The tax law states the reasons allowed and the need to record the specific facts rendering the parcel eligible for withdrawal.

[2] There has been little caselaw on the matter of sufficiency of grounds for withdrawal, but the Court in County of Orange found it sufficient that each certificate stated the reason for the hazard as "landfill" to describe the "specific facts which render the parcel eligible for withdrawal." *In the Matter of ENFORCEMENT OF TAX LIENS, etc., v. COUNTY OF ORANGE, 75 A.D.3d 224 (2010).*

Recommendation 1:

The County should foreclose as soon as possible on all properties that do not specifically meet the withdrawal criteria established under RPTL and County policy.

Recommendation 2:

The County should adopt a detailed policy to govern the in-rem foreclosure proceedings and tax enforcement duties of the County. The County policy should detail the roles and responsibilities of the staff involved and identify sufficient supporting documentation required. The policy should also identify specific reasons for withdrawal and should limit exceptions to extreme circumstances to ensure that the County is equitably enforcing Real Property Tax Law. The policy should either require direct legislative approval of withdrawals or should delegate that review to a committee that includes appropriate legal, technical and governance staff. The County should determine if any other action should be taken in the public interest with respect to withdrawn properties, such as an evaluation of the environmental risk. Finally, properties that are withdrawn due to cancellation of tax should have the appropriate applications filed with the approval of the tax levying body or official designated by resolution.

The County should adopt an organized workflow process to ensure that reasons for withdrawal and supporting documentation are sufficient. We suggest the County develop a Withdrawal Checklist, and Withdrawal Worksheets, to be completed for each property withdrawn from foreclosure. These forms, and the supporting documentation noted within them should be provided to the Legislature and be available for review. Any policy adopted prior to software implementation should be reviewed and updated once new software is in place.

See **Exhibit 1, Sample Foreclosure Withdrawal Workflow** for a sample workflow process developed by our Office. We encourage the County to modify and adapt these forms as necessary and are provided as examples only.

Finding 3**Condition:**

The County did not make timely property tax payments, resulting in interest and penalties.

Effect:

The County incurred and paid at least \$269k in unnecessary interest expense.

Although generally exempt from property taxation, the County has ongoing liability for school taxes on properties taken in the foreclosure process unless the property is converted to municipal use. Therefore, school taxes continue to accrue during the County's ownership and are due on a timely basis otherwise interest and penalties are assessed.

In March of 2022, the County made a large payment to the Kingston City School District that included tax payments for the Enterprise West campus parcels (acquired by the County in 2019). Because the payments for these County owned parcels were past due, the County paid \$269k in interest, in addition to the \$1 million tax payment owed for the 20/21 and 21/22 school tax bills. Had the County paid the bills immediately following the foreclosure and transfer of ownership, the County could have avoided hundreds of thousands in interest expenses on these two parcels alone. A portion of this interest (\$191,000) was also paid in error, which is discussed in greater detail in Finding 4.

Cause:

The County's current procedure is to pay property taxes when a property is sold, or transferred, as opposed to when the County initially takes ownership. The County does not effectively manage the inventory of properties taken for taxes including timely payment of related real property taxes.

Criteria:

RPTL §924(a) states that taxes paid after the due date will be subject to interest as follows:

"The amount of interest to be added on all taxes received after the interest free period and all delinquent taxes shall be one-twelfth the rate of interest as determined pursuant to subdivision two or two-a of this section rounded to the nearest one-hundredth of a percentage point, except as otherwise provided by a general or special law, or a local law adopted by a city pursuant to the municipal home rule law or any special law. Such interest shall be added for each month or fraction thereof until such taxes are paid."

Recommendation 1:

The County should pay taxes due on County owned property as soon as possible to limit interest expenses incurred and losses realized on property transfers.

Recommendation 2:

The County should develop a system for tracking, monitoring, and accounting for County-owned properties and the related property taxes to ensure timely and accurate payments.

Finding 4

Condition:

The County made an error in the calculation of interest owed on tax foreclosed properties resulting in a significant overpayment to Kingston City School District.

When reviewing the tax payments made for the properties referenced in Finding 3, the Comptroller's Office determined an error made in the calculation of interest owed on many properties acquired by the County through the foreclosure process. In March of 2022, the County paid KCSD school district taxes for properties acquired through the foreclosure and subsequently transferred to UCEDA. The interest was calculated by the Department of Finance at 26% for all taxes paid. Based on the original due date of taxes, these tax warrants would only be subject to 2% and 13% depending on the tax year being paid.

Effect:

Due to the miscalculation of interest due, the County overpaid the KCSD more than \$400k in excess interest expense. As a result of this finding the School District and the County are working to ensure the overpayment is resolved.

Upon further investigation, our audit identified that the County applied a 26% interest rate to all properties that had been subject to foreclosure, regardless of the due date or the date of payment. This was an internal process error that dates back as far as we are able to review and resulted in an additional \$18k in interest overpayments to KCSD since 2019 in addition to the \$400k overpayment related to the UCEDA parcels.

Cause:

The County uses a manual entry spreadsheet to calculate interest on taxes, and there is no process of review or reconciliation of interest owed and paid. The County's manual process for calculating interest for properties incorrectly used a 26% for all auction properties, resulting in overpayments of interest on properties. Per the Commissioner of Finance, the correct interest rates for those payments should have been 2% and 13%. If the County had a procedure for handling real property taken through foreclosure and regularly reviewed and improved that procedure this error would be more likely to be identified.

Criteria:

As noted in Finding 2, RPTL §924(a) states that taxes paid after the due date will be subject to interest. Also, according to the Department of Finance's Interest Summary Procedure, the interest is calculated at a rate of 1% per month.

Recommendation 1:

The County should recoup the specifically identified \$380k overpayments of interest made to KCSD for the TechCity properties taken through foreclosure. The County should discuss action regarding the remaining overpayments to KCSD over the last several years to determine appropriate corrective action in the best interest of both organizations and the Ulster County taxpayer. NOTE: The County has since recouped the overpayment from the Kingston City School District, see Appendix A, Overpayment of School Tax Recoupment.

Recommendation 2:

The interest for delinquent properties should be calculated based on the original due date of the tax warrant and this should be written into the policy being developed to handle foreclosed properties. The calculation should be reviewed and approved by supervisors to ensure that amounts calculated are correct. The Comptroller's Office will work with the County's Finance Department to develop greater internal controls as they relate to the calculation and payment of interest related to delinquent properties.

[3] The City of Kingston has its own delinquent tax process for properties within City boundaries. So, the overpayment of interest to KCSD is only for properties within the school district but outside of the City. This includes the towns of Esopus, Hurley, Kingston, Rosendale, and Ulster.

Scope

The scope of our audit included all properties withdrawn from the 2017 foreclosure proceeding. Due to the timing of the foreclosure process, and the absence of a property auction in 2020, 2017 was the most recent tax year for which the County should have completed its foreclosure process.

During the audit we reviewed 2,347 properties that were originally included in the County's eligible for foreclosure list. After reviewing all the properties originally identified as eligible for foreclosure, we concentrated our testing on properties that had been withdrawn from the action, which included 578 in 2017.

Our audit included multiple requests for information and clarification from various County departments involved in the foreclosure process, including the County Executive, Commissioner of Finance, County Attorney, Department of Public Works, and Department of Environment.

Our office reviewed the 2017 foreclosure eligible lists maintained by the County Clerk's Office, researched the withdrawal forms filed with the Clerk and made available on the court document search engine, and examined all documentation and communications provided by various departments as they related to the withdrawal of properties. We specifically reviewed those properties that had been withdrawn due to "potentially hazardous conditions or significant liability," those removed due to a legal impediment, cancellation of taxes or had no withdrawal certificate filed.

Additionally, after identifying the overpayment of interest noted in finding 4, we reviewed all payments made to KCSO over the last three-year period and recalculated the interest rate paid for every property.

After repeated requests to gain access to TRUT, the primary software used to record transactions related to real property tax collections, our office was denied access to the portion of the system that would allow us to review transactional detail. This significant scope limitation directly impacts our ability to gain assurance that all transactions have been accurately recorded in the financial system. NOTE: Following management's review of the audit coupled with the abrupt resignation of the Commissioner of Finance the Administration has since provided our Office with assistance and full access to the TRUT system. Our office is currently in the process of continuing the audit of the real property tax collections and the related internal controls.

Background

Delinquent Tax Collection Process

The delinquent tax collection process is governed by RPTL Article 11. Under Article 11 towns are responsible for collecting taxes between January and June of each year and thus collections are handled by towns until June 1st of each year. Towns collect taxes until they reach their total warrant (or tax levy) and, once the town has collected enough to cover their warrant, they begin sending collections to the County. This means in essence, towns are "making themselves whole" before making any payments to the County at all. Supervisors send collections and related reports to the County, including lists of delinquent payers for the year. As a part of their collection responsibilities towns are responsible for collecting any interest applicable for taxes paid between January and June. Once the collection responsibility is transferred to the County, the County collects interest.

Unlike towns, school districts essentially never collect their entire warrant (they never make themselves whole), generally the County always makes a substantial payment to make the schools whole on their annual warrants, once taxes are more than two years overdue.

Property taxes due to school districts that remain unpaid at the time the collecting officer is required by law to return the warrant will become a liability of the County, as the County is responsible for settling the unpaid taxes with the school district for all amounts owed on properties located in all municipalities outside of city limits. In Ulster County, the Department of Finance is responsible for the enforcement and collection of delinquent property and school taxes in accordance with state law.

School tax bills are mailed in September of each year. School districts generally assess a 1% penalty from October 1st through the end of their collection period. Each district has its own cut-off date for tax collections that is reflective of their individual billing and collection process.

KCSO delinquent school tax collections made after December 15th of each year are payable to the County, who collects and records all subsequent payments and disburses all such collections on a monthly basis back to the School District. The County collects the delinquent tax owed, the applicable interest owed (2% for already

delinquent KCSD school taxes), and a 5% penalty for late payment, plus 1% interest each month thereafter. The interest collected is passed along to KCSD, while the penalty payment is retained by the County.

Kingston City School District		
School Tax Bill		
September 15th-Oct 15th	No Interest	1st Half
December 4th	No Interest	2nd Half if 1st is paid
December 16th	Turned over to County w/2% on Base 5% Penalty	
Interest 1% each month thereafter		

After a period of two years has expired on delinquent tax properties, the County makes payment to KCSD for those delinquent taxes that have gone uncollected. This payment is made on an annual basis in March of each year. All subsequent tax collections are then retained by the County, as the School District has already been made whole for that tax collection year.

Software Replacement

Ulster County has been using a DOS-based version of custom computer software (TRUT) that runs on an AS400 for our delinquent tax calculations and processing since the 1980s. It has been a known goal of the County to replace this legacy system and in 2020 the County approved Capital Project 564 to purchase software to replace TRUT. Due to the pandemic, this program was not implemented but it was included in the 2021, 2022 and 2023 adopted Capital Plans at \$550,000.

Ulster County issued an RFP for this service in January of 2022. The Comptroller's Office reviewed the RFP for Ulster County as well as similar RFPs from several other New York State counties. The County received four bids and selected the company Systems East as the vendor to provide this software. The County Comptroller and Deputy Comptroller also had the opportunity to meet and speak with Systems East representatives after they were identified as the selected vendor. Systems East performed a demonstration for our office in August of 2022. Our office raised concerns to the Finance Department that the software should be able to accommodate usage by other taxing jurisdictions and we were pleased to learn that the scope of the product had been modified to include this additional functionality. The \$389,275 contract with Systems East was approved by the Comptroller's Office on January 10, 2023.

History of this Audit

After a property with several years of delinquent taxes was identified as an income producing property by the County Legislature, our office conducted a thorough investigation of the tax delinquency and foreclosure proceedings related to the property located at 701 Grant Avenue in Lake Katrine. Following the review of this particular property, the office of the County Comptroller initiated an audit of the real property tax collections and foreclosure process to evaluate the internal controls over the County's collection and enforcement of real property taxes in accordance with RPTL Article 11. Based on our initial review of the available documentation, we identified several risks as they pertain to the withdrawal of properties from County foreclosure proceedings. At that time, we decided to narrow the focus of our audit to the withdrawals of properties from the most recent foreclosure proceedings. We reviewed 578 properties that were withdrawn from the 2017 foreclosure proceeding for over **\$710,561** in 2017 taxes alone, not including delinquencies incurred in prior years. Total delinquencies reported in the County's foreclosure auctions was more than \$3.5 million for 2017 and prior tax delinquencies as reported in the County's 2020 foreclosure auction booklet.

In accordance with the Ulster County Charter and the New York State RPTL, Real Property Tax Services' (Real Property) primary objectives are to ensure the fair and equitable allocation of real property taxes across Ulster County, maximize the collection of real property tax dollars, and assist the local assessment community in maintaining up to date real property tax maps and valuation data. To achieve its purpose, the responsibilities of Real Property are comprised of tax preparation and administration; tax mapping and title searching; and collection of the current County taxes as well as the foreclosure (enforcement) of County-wide delinquent tax liens.

Real Property is the custodian for the collection of real property taxes and the disposition of tax delinquent property. This service area monitors the collection and receipt of the current and delinquent property tax revenues, and the foreclosure of properties whose owners fail to pay tax.

Several members of the County's Legislature are in the process of developing a policy to address the foreclosure process in cooperation with the County Executive's Office. We suggest that they consider the information contained in this report, specifically as it relates to the establishment of controls over the withdrawal process.

Conclusion

Absent an effective policy to govern the real property tax foreclosure process, the County has failed to foreclose on and collect tax revenues for properties with delinquent taxes. Our audit identified that at least one property was withdrawn from foreclosure for several years, without proper justification, allowing more than \$11 million in taxes and interest to accrue. Additionally, our audit identified that the County was late paying taxes owed on County acquired properties, incurring unnecessary interest and penalties. Errors in interest calculations also led to overpayments of more than \$380k in interest related to properties acquired by foreclosure.

The County should take corrective action as it relates to the foreclosure and sale of the property located at 701 Grant Avenue and should thoroughly review the remaining properties on the County's hazardous list to ensure that there are no other properties circumventing the tax collection and foreclosure process. The County has commenced a contract with LaBella Contractors to assess the hazardous properties following the completion of our initial audit work. The County should develop a detailed policy that outlines the appropriate criteria for all withdrawals, and the supporting documentation that should be maintained to justify the County's decision to not enforce tax. The policy should also address the review and approval of decisions made throughout the foreclosure process which should include the Legislature as the tax levying body of the County.

We would like to reiterate that it is the County's legal obligation to enforce real property tax. Decisions not to enforce tax should be made with extreme care and scrutiny to ensure equitable application of the law and the safeguarding of taxpayer interests. These decisions should include review and approval by the Legislature, as the primary governing and tax levying body.

Management will have an opportunity to review this report in draft form and Management response will be attached.



ULSTER COUNTY DEPARTMENT OF FINANCE

PO Box 1800, 244 Fair Street, Kingston, New York 12402

Telephone (845) 340-3460 Fax (845) 340-3430

Kenneth J. Juras
Interim Commissioner
of Finance



Adam Korol, CPA
Deputy Commissioner of Finance

Tracey Williams
Deputy Commissioner of Finance
Director of Real Property Tax Service

March Gallagher
Ulster County Comptroller
P.O. Box 1800
Kingston, N.Y. 12401

Dear Comptroller Gallagher,

I would like to take the opportunity to thank you and your team for your review of the County's delinquent real property collection. In this moment of transition, it is more imperative than ever that a collaborative approach to identifying issues and providing constructive solutions to address issues is employed. To that end, please find below the management response to the audit, along with some of the steps we will be undertaking to address the concerns raised.

Beginning with the first finding, relating to reconciling transactions between the Treasurer's Unpaid Tax System (TRUT) and the County's financial system (New World), we agree that improvements need to be made. The current process of reconciling the most recent month's transactions between TRUT and New World continues. Additionally, this month, the Finance Department has begun work with the County's Information Services Department (I.S.) to develop new reports that will enable Finance and Comptroller staff greater ability to reconcile TRUT and New World between multiple months, as well as past years, to better ensure transactions are not being recorded outside of the monthly reconciliation process. We appreciate the cooperation of the County Comptroller's staff in assisting the Department in enhancing these controls and reconciliations and look forward to additional dialogue that will help strengthen our processes.

The Finance Department has also begun the process of moving away from the outdated in-house designed TRUT system that has been in use for a few decades, to a modern web-based platform used by many other municipalities, from Systems East. While anticipated to be rolled out on April 1, 2023, we have delayed implementation by a month during this transition period. This new system will provide significantly better internal controls and reconciliation processes and provide greater transparency for all County users.

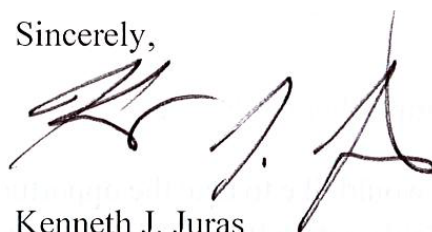
Regarding the second finding concerned with the property withdrawal process, the County has embarked on a process to better formalize the procedures and policies relating to when and how foreclosed properties are removed. The County Departments involved in this process are working with the County Legislature to develop a formal policy on how and when tax foreclosure eligible properties are acquired and disposed. We are committed to developing a policy that improves transparency about decisions to remove properties from the auction. We also anticipate that the County's final policy could be affected by pending State legislation and possible impacts from a pending Supreme Court case.

Finally, in reviewing the report, we believe that a further review of our procedure for cancelling taxes is required. As currently implemented, taxes that are canceled are sent from the Finance Department to the Legislature for Chair approval. These forms arrive separately and in batches that may or may not include properties that are auction eligible. We are beginning to look at ways to communicate this information more effectively prior to approval.

We concur with your third finding and will take steps to streamline this process to reduce the liability for property taxes owed by the County.

On the final finding regarding a mistaken overpayment to the Kingston City School District, we are happy to report that thanks to the assistance of the County Comptroller's staff, the school district has remitted the funds back to the County. We thank the Kingston City School District for addressing the error so quickly. Again, we would like to thank the staff of the Comptroller's Office for their thorough review of delinquent property tax collection, and we look forward to continuing our work together to improve these processes.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Juras', written over a faint, illegible background.

Kenneth J. Juras
Interim Commissioner of Finance

EXHIBIT 1
OVERPAYMENT OF SCHOOL TAX RECOUPMENT

ULSTER COUNTY DEPARTMENT OF FINANCE

PO Box 1800, 244 Fair Street, Kingston, New York 12402

Telephone (845) 340-3460 Fax (845) 340-3430

Burton Gulnick, Jr.
Commissioner of Finance



Adam Korol, CPA
Deputy Commissioner of Finance

Tracey Williams
Deputy Commissioner of Finance
Director of Real Property Tax Service

February 27, 2023

Ms. Anne Kleeschulte, Treasurer
Kingston Consolidated School District
21 Wynkoop Place
Kingston, NY 12401

RE: Overpayment of 2020/21 and 2021/22 School Taxes

Dear Anne,

On March 31, 2022, Ulster County issued a check to your office for \$3,152,708.85 which represented payment of delinquent school taxes. Included in that payment were properties the County transferred to Ulster County Economic Development Alliance (UCEDA). It has now come to my attention that the interest paid on the properties transferred to UCEDA was incorrect.

The amount paid in interest for the 2021/22 school taxes was \$294,034.45 and should have been \$169,635.26. The amount of interest paid for the 2021/22 school taxes was \$288,034.81 and should have been \$33,234.79. This resulted in an overpayment of \$379,199.21. As such, I have included an invoice for the refund due to Ulster County.

If you have any questions regarding this matter, please feel free to contact my office.

Sincerely,

Burton Gulnick, Jr.
Ulster County Commissioner of Finance

BG/ds
Encl.



Ulster County
ulstercountyny.gov

Invoice Number:	2023-00525101
Date:	02/23/2023
Due Date:	03/03/2023
Terms:	Net 30 Days
Total Invoice:	\$379,199.21
Prepayments:	\$0.00
Total Due:	\$379,199.21

REMIT PAYMENT TO:

Ulster County Department of Finance
244 Fair Street - PO Box 1800
Kingston, NY 12402

CUSTOMER #: 117

Kingston Consolidated Schools
21 Wynkoop Place
Kingston, NY 12401

Amount enclosed: _____

PAYMENT DUE UPON RECEIPT

PLEASE RETURN REMITTANCE COPY***

INVOICE TYPE: DOF OTHER

DESCRIPTION: DOF OTHER

Description	Comments	Quantity	UOM	Unit Price	Total Price
Tax Overpayment	2020/2021 Overpayment of School Taxes	1	CLAIM	\$124,399.1900	\$124,399.19
Tax Overpayment	2021/2022 Overpayment of School Taxes	1	CLAIM	\$254,800.0200	\$254,800.02

Total Invoice:	\$379,199.21
Prepayments:	\$0.00
Total Due:	\$379,199.21

EXHIBIT 2

SAMPLE FORECLOSURE WITHDRAWAL WORKFLOW



ULSTER COUNTY WITHDRAWAL CHECKLIST

Case No.

Serial #

Town of

Owner

SBL #

Reason for Withdrawal

- | | |
|--|--|
| <input type="checkbox"/> Hazardous/Liability | <input type="checkbox"/> Bankruptcy |
| <input type="checkbox"/> Legal Impediment | <input type="checkbox"/> Deeded Back to Owner |
| <input type="checkbox"/> Parcel sold/Transferred or County-owned | <input type="checkbox"/> Cancellation of Tax |
| <input type="checkbox"/> Installment Agreement | <input type="checkbox"/> Redemption Period Extension |
| <input type="checkbox"/> Sold or Transferred | |

Appropriate Documentation

- Completed Withdrawal Form
- Completed Withdrawal Reason Worksheet
- Supporting Documentation with Attachments

Date Resolution to Legislature for approval:

Date Completed:

Approved By:



ULSTER COUNTY BANKRUPTCY WITHDRAWAL WORKSHEET

SBL: Date Completed:

Owner Name:

Address:

Oldest year of unpaid tax:

Total Taxes unpaid: as of

Property withdrawn due to Bankruptcy filed on

Proof of claim has been filed with Bankruptcy Court

Date filed proof of claim with Bankruptcy Court

Supporting Documentation/Attachments:

Case Number

County Attorney Approval



ULSTER COUNTY CANCELLATION OF TAX WITHDRAWAL WORKSHEET

SBL: Date Completed:

Owner Name:

Address:

Oldest year of unpaid tax:

Total Taxes unpaid: as of

Reason for Cancellation:

Supporting Documentation/Attachments:

Legislative Resolution approving cancellation of tax



ULSTER COUNTY DEEDED BACK TO OWNER WITHDRAWAL WORKSHEET

SBL: Date Completed:

Owner Name:

Address:

Oldest year of unpaid tax:

Total Taxes unpaid: as of

Parcel was deeded back to owner on

Transaction Details

Total Paid

Taxes Total

School Taxes Paid

Interest

Penalties

Other Expenses (ex. title search)

Order sent to court to reinstate all liens on

Supporting Documentation:

New World Receipt for Payment

Resolution approving sale to owner



ULSTER COUNTY HAZARDOUS/LIABILITY WITHDRAWAL WORKSHEET

SBL: Date Completed:

Owner Name:

Address:

Oldest year of unpaid tax:

Total Taxes unpaid: as of

Reason for Withdrawal:

Environmental Contamination

DEC spill site/reference #

Date of spill/inspection

Most Recent year reviewed By:

Department of Environment approval:

Other Liability

Explanation:

Total Estimated Liability: \$

Total Estimated Market Value: \$

Supporting Documentation/Attachments:

Town Building Inspector Report

DPW Inspection report with pictures

Most recent Ulster County hazardous property list as of

Date Resolution was sent to the Legislature



ULSTER COUNTY INSTALLMENT AGREEMENT WITHDRAWAL WORKSHEET

SBL: Date Completed:

Owner Name:

Address:

Oldest year of unpaid tax:

Total Taxes unpaid: as of

Owner entered an Installment Agreement on

Supporting Documentation/Attachments:

Installment Agreement Number



ULSTER COUNTY LEGAL IMPEDIMENT WITHDRAWAL WORKSHEET

SBL: Date Completed:

Owner Name:

Address:

Oldest year of unpaid tax:

Total Taxes unpaid: as of

Reason:

Failure of Service Process

Explanation:

Lien/Other Pending Litigation

Case #

Explanation:

Supporting Documentation/Attachments:

County Attorney Approval

Court Documentation referencing litigation considered

Returned mail/process of service failure documentation



REDEMPTION EXTENSION WITHDRAWAL WORKSHEET

SBL: Date Completed:

Owner Name:

Address:

Oldest year of unpaid tax:

Total Taxes unpaid: as of

Taxing Jurisdiction Extended Redemption Period

Extension Details:

Taxing Jurisdiction

Date Extension Adopted

Qualifications

Residential

Farm

Military

Supporting Documentation:

Copy of the Local Law



ULSTER COUNTY SOLD/TRANSFERRED WITHDRAWAL WORKSHEET

SBL: Date Completed:

Owner Name:

Address:

Oldest year of unpaid tax:

Total Taxes unpaid: as of

Purchase/Transfer Information:

Purchaser Name(s):

Purchase Price:

Purchase Date:

Reason:

Parcel transferred to

Purchased at Ulster County Auction

Purchased at private sale, Approved by Resolution

Parcel is County owned

Property foreclosed on

Available for auction

Kept for County Use

Supporting Documentation/Attachments:

New World System receipt

Legislative Resolution approval parcel sale/transfer/county use

Prior year foreclosure documentation, if applicable