



**SUFFOLK COUNTY
OFFICE OF THE COMPTROLLER
AUDIT DIVISION**

**John M. Kennedy, Jr.
Comptroller**

**A Limited Scope Review of the
Surplus County-Owned Real Estate Auction
Held on September 24 & 25, 2013
For the Period
September 24, 2013 through November 30, 2014**

**Report No. 2015-01
Date Issued: January 23, 2015**

**SUFFOLK COUNTY
OFFICE OF THE COMPTROLLER**

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LETTER OF TRANSMITTAL

January 6, 2015

Joanne Minieri
Deputy County Executive/Commissioner
Suffolk County Dept. of Economic Development & Planning
H. Lee Dennison Office Building
100 Veterans Memorial Highway
Hauppauge, NY 11788-0099

Dear Ms. Minieri:

In accordance with the authority vested in the County Comptroller by Article V of the Suffolk County Charter, we conducted a limited scope review of the Surplus County-Owned Real Estate Auction, held in the Media Room of the H. Lee Dennison Executive Office Building in Hauppauge on September 24 & 25, 2013. The auction was administered by the Department of Economic Development and Planning, Division of Real Property Acquisition and Management (Division).

Our review focused on revenues generated from the auction. Our objective was limited to determining if those revenues were properly recorded, reconciled and transmitted to the County Treasurer in accordance with applicable laws and regulations. Our review period was September 24, 2013 through November 30, 2014.

Review procedures consisted primarily of our observation of the auction process, inquiries of Division employees and an examination of related laws and documentation. Therefore, our review was substantially less in scope than an audit conducted in accordance with generally accepted government auditing standards. However, we believe that our procedures provided a reasonable basis for the findings contained herein.

Our review determined that 129 parcels of real property were sold at the auction which generated final bids of \$5,111,400. Auction revenues, consisting of down payments and related fees of \$1,252,334, were properly collected, recorded and transmitted to the County Treasurer by the Division immediately after the auction. Real estate closings were conducted by the Division throughout the ensuing year and as of November 30, 2014, we determined that twelve of the auction sales were forfeited or canceled resulting in adjusted auction sales of 117 parcels, representing final bids in the amount of \$4,595,500 (a difference of \$515,900). Of the 117 parcels, 89 have been closed and the related funds realized by the County.

Respectfully submitted,

Office of the County Comptroller
Division of Auditing Services

GENERAL INFORMATION

Pursuant to the Suffolk County Tax Act, Suffolk County acquires title to property as a result of the prior owner's failure to pay property taxes and after all rights of redemption have been exhausted. In addition, the County sometimes retains parcels acquired by condemnation but no longer needed for a public project. In accordance with Section A40-4 of the County Code, these properties can be retained for a County purpose or considered surplus to be disposed of by sale at public auction, direct sale to adjacent owners or sale to municipalities for affordable housing or general municipal purposes.

The Division is responsible for the management and disposition of the County's surplus properties. Depending on the number of parcels in the county inventory, the Division generally conducts one to two public auctions per year to sell surplus properties. The Division publishes an auction booklet for each auction that contains auction rules, terms and conditions of sale and a list of parcels to be sold; all of which are approved by legislative resolution. Upcoming auctions are advertised in the County's official newspapers, on the County website and by circulating the auction booklet in County and Town facilities. Prior to the auction, potential bidders are required to pre-register with the Division. In addition, properties to be auctioned are made available to potential bidders for physical inspection. All properties are sold as is.

A 20% down payment for each parcel sold is collected at the auction from successful bidders and must be paid in cash, bank check or other cash equivalents. Successful bidders must also pay a non-refundable auction fee to offset auction expenses which can be paid by personal check (\$25 for sales up to \$2,500 and 1% of the purchase price for sales over \$2,500). In addition, a surcharge imposed by County law to offset the cost of maintaining surplus County property must be paid by buyers at closing. These funds are deposited with the Suffolk County Sheriff to fund the Sheriff's Labor Assistance Program (SLAP). All auction sales are approved by legislative resolution after the auction. Following approval, the Division conducts a formal real estate closing with each purchaser which should occur within two years of signing the contract of sale.

SCOPE AND METHODOLOGY

To accomplish our objectives, we performed the following procedures:

- Reviewed laws, regulations and county resolutions applicable to the sale of surplus county property.
- Reviewed the Division's procedures for the processing of auction revenues.
- Interviewed Division personnel to gain an understanding of the auction, cash collection and closing processes.
- Observed the auction proceedings and recorded the final bids and payments.
- Reconciled the observed bid amounts and payments to the Division's auction sale report, bank deposits and revenues transmitted to the County Treasurer.
- Reviewed documentation to determine the status of parcel closings.

REVIEW FINDINGS

We reviewed the revenues generated from the Surplus County-Owned Real Estate Auction held on September 24 & 25, 2013 administered by the Department of Economic Development and Planning, Division of Real Property Acquisition and Management (Division). Prior to the auction, 218 individuals and/or corporations pre-registered to participate in the auction and 158 bidders attended the two-day event. The auction booklet advertised 146 parcels for sale of which 13 parcels were removed from the auction prior to the proceedings for various reasons, 4 parcels received no bids and 129 parcels were sold for final bids, amounting to \$5,111,400.

We determined that revenues, collected from the two-day auction consisting of down payments, overpayments¹ and auction fees in the amount of \$1,252,334, were properly collected, recorded and deposited in the Division's bank account. In addition, the Division properly submitted the auction revenues to the County Treasurer on September 27, 2013 (Schedule 1, p. 7).

As of November 30, 2014, nine auction sales were forfeited by the buyers for which the related down payments and auction fees were retained by the County and three auction sales were canceled because the buyer proved that he could not obtain clear title, resulting in a refund of the related down payments and auction fees in accordance with auction rules. Consequently, the number of parcels sold was reduced to 117 with final bids equaling \$4,595,500 (a difference of \$515,900). Of the 117 parcels sold, 89 have been closed and the related titles have been transferred to the buyers. Twenty-eight parcels are not yet closed (Schedule 2, p. 8).

Our review also revealed the following condition:

Thirteen bidders paid for their parcels with cash in excess of \$10,000 and we observed that some of the cash did not appear to have come from a bank. We noted that cash payments are not discouraged by the auction rules and that the Division did not report the transactions to the Internal Revenue Service (IRS). The possibility exists that some of these property purchases could have represented an attempt by the buyer to legitimize money that may have been realized from illegal activity. IRS Code 60501 and related Publication 1544 requires that any person in a trade or business who receives more than \$10,000 in cash in a single transaction or in related transactions must file IRS Form 8300 to report the nature of the transaction. Compliance with this code helps the IRS track illegal activities such as drug dealing, smuggling, tax evasion and terrorism. Governmental units are not specifically required to comply with this code; however, voluntary compliance would be best practice towards ensuring that the County is not providing a venue to "launder" illegally-gained money.

¹ Purchasers can request that overpayments be refunded by the Division or applied to the balance due on the parcel at closing.

RECOMMENDATIONS

- Although not specifically mandated by law, we recommend that the Division comply with the reporting requirements of Publication 1544 and file Form 8300 for all cash transactions over \$10,000. It should be noted that for the subsequent auction held on October 28, 29 and 30, 2014, the Division complied with our recommendation and submitted Form 8300 to the IRS with regard to four auction buyers.
- The Division should discourage large cash transactions from occurring at the auctions. The auction rules that are approved by the Legislature and published in the auction booklet should prominently include a statement that **anyone who makes a cash payment over \$10,000 in a single transaction or in related transactions will be reported to the IRS.** We believe that including such a statement in the auction booklet will ultimately discourage large cash transactions from occurring at the auctions, reduce the possibility of theft and prevent the auctions from being used by buyers as a venue to “launder” money.

SCHEDULES

SCHEDULE 1

**Surplus County-Owned Real Estate Auction
Held on September 24 & 25, 2013
For the Period September 24, 2013 through November 30, 2014**

Summary of Auction Revenue

Parcels Sold:

Number of Parcels Advertised for Auction	146
Less: Removed from Auction	13
Less: No Bids	<u>4</u>
Total Parcels Sold	<u>129</u>

Total Final Bids: **\$ 5,111,400**

Revenues from Auction Proceedings:

Down Payments (20% of final bids & overpayments)	\$ 1,200,735
Auction Fees	<u>51,599</u>
Total Revenues Collected & Deposited	<u>\$ 1,252,334</u>

SCHEDULE 2

**Surplus County-Owned Real Estate Auction
Held on September 24 & 25, 2013
For the Period September 24, 2013 through November 30, 2014**

Status of Parcels Sold as of November 30, 2014

Parcels Sold:

Parcels Sold at Auction on September 24 & 25, 2013	129
Less: Forfeited Parcels (deposit and fees retained)	9
Less: Canceled Sales (deposit and fees refunded to bidder)	<u>3</u>
Total Adjusted Parcels Sold	<u>117</u>

Adjusted Final Bids: **\$4,595,500**

Status of Closings:

Total Adjusted Parcels Sold	117
Less: Parcels Closed	<u>89</u>
Parcels Not Closed	<u>28</u>

APPENDIX

APPENDIX A

Exit Conference Report

Auditee: Department of Economic Development and Planning, Division of Real Property Acquisition and Management

On January 20, 2015, the Department submitted an email response to our report in which they concurred with our recommendations and indicated that they will take the appropriate corrective action. Therefore, no modification of the report is necessary.

We extend our gratitude to the Department for their cooperation during the audit and for taking corrective action to address the deficiencies identified in our report.