

## RESPA and what you should know about your real estate tax responsibilities

- 1. What is RESPA? RESPA is The Real Estate Settlement Procedures Act. RESPA** “is a consumer protection statute, first passed in 1974. Developed to help consumers to be better shoppers for settlement services and reduce unnecessary costs for certain real estate settlement services. RESPA covers loans secured with a mortgage placed on a one-to-four family residential property. These include most purchase loans, assumptions, refinances, property improvement loans, and equity lines of credit. HUD’s Office of RESPA and Interstate Land Sales is responsible for enforcing RESPA.”
- 2. Does RESPA require you to escrow for real estate taxes and homeowner’s insurance? No.** But it does regulate the amounts mortgage lenders may require at any given time and outline certain provisions regarding escrow statement disclosure and subsequent assignment.
- 3. Can my mortgage lender insist that I escrow for taxes and insurance. Yes.** Some lenders including certain government agency mortgagees may require you to escrow for taxes and insurance.
- 4. Will I owe (or am I due a refund of) property taxes as a result of certain real estate transactions? Most likely yes.** When you sell and buy real estate, or re-finance an existing real estate mortgage such activity generally requires a “settlement” of property taxes. The **HUD-1 Settlement Statement** is “a standard form that clearly shows all charges imposed on borrowers and sellers in connection with the settlement.” Be sure you read and understand this document as it refers to what your financial obligations are as a result of your “closing”.
- 5. Who actually pays If I owe (an apportionment of) taxes at settlement? Typically, the closing attorneys will remit any taxes due** at settlement, directly to the Municipality. **However**, it is your ultimate responsibility to ensure that all taxes due are paid and applied correctly. Failure to pay any taxes in a timely manner will result in penalty fees, interest and possible tax liens.
- 6. How do I know exactly what taxes are due on a property as of “settlement” date for real estate sales or mortgage re-finance? Up-to-date tax information may be obtained from an MLC (Municipal Lien Certificate).** For a small fee, you or your closing agent should request an MLC which certifies exact tax payoff information for each parcel of land. A certified MLC may be filed with the local Registry of Deeds as proof of taxes paid or due.
- 7. If the previous owner of a property does NOT pay all previous taxes is the new owner financially liable? Yes.** Under most circumstances financial liability (for all past due taxes, charges and interest) is assumed by the new owner unless other financial arrangements have been negotiated with the prior owner(s) AND successfully collected by the Municipality. Otherwise, the new owner is financially liable and does NOT have clear title to the property.
- 8. Is my mortgage lender responsible for paying my real estate taxes on time to avoid penalty? Yes.** If you have an escrow account with a mortgage lender they are responsible for making your tax payments in a timely manner. Any late fees or interest should be refunded to you by your mortgage lender NOT the municipality. If your mortgage company

refuses to absorb these fees you may file a complaint with their consumer service department.

9. **Am I entitled to receive a refund for overpayment of a tax bill? It depends** on who actually made the overpayment. If both you and your mortgage lender paid the same tax bill, or simply paid too much for a particular fiscal year, you may be entitled to receive a refund. Typically, refunds are not issued until after the current fiscal year has ended **AND** not without adequate proof of payment. Changes in property ownership and in mortgage/escrow companies during the fiscal tax year are two major concerns that require a municipality to research each situation before issuing any refunds. Otherwise, the wrong parties could receive the refund.
10. **Can a Municipality foreclose on my property because of any delinquent taxes, even if it only represents a fraction of what my property is worth? Yes.** Failure to pay any and all past due taxes, charges and interest will result in foreclosure proceedings regardless of property market value. Upon receiving final judgment by the Land Court or Massachusetts Department of Revenue, the Municipality has full legal authority to sell or otherwise dispose of foreclosed property.
11. **What can I do if I am having trouble paying my real estate taxes? You are encouraged to contact the Tax Collector or Assessor** to discuss possible payment options, deferrals, exemptions or abatements. Tax Title and Foreclosure are a last resort to protect the financial interests of the Town and ultimately collect what is due. Ignoring your tax obligations result in steep interest and charges, as required by Massachusetts General Law. And, may ultimately cause you to lose your property.
12. **What can my mortgage company do in order to protect their financial interest in my home or property? Mortgage lenders regularly monitor** your non-escrowed tax payments and liability. They obtain tax information from Municipalities in order to ensure that your property remains free of tax liens. Municipal tax liens supersede all other liens on a property. As such, Tax Takings and petitions for Foreclosure will result in the mortgage company paying off your tax liability (thereby increasing your liability to them) and most likely require you to escrow for taxes in the future. They do so in order to protect the value of their loan should you default or otherwise lose your property that represents collateralization for their loan.
13. **Is my real estate tax information public? Yes.** All real estate tax information is considered public. Anyone may request balances due, assessment values and tax lien information. Furthermore, the State requires public, conspicuous notification of certain tax proceedings such as Tax Takings.

If you have any further questions regarding your real estate tax bill or tax liability please feel free to contact the Tax Collector's Office at 978-443-8891 extension 376 or at [Treasurer@town.sudbury.ma.us](mailto:Treasurer@town.sudbury.ma.us)