TOWN OF CASCO
TAX ACQUIRED PROPERTY POLICY

Section 1. Purpose: The purpose of this policy is establishing procedures for the disposition of tax-acquired property. This Policy repeals and replaces all prior versions of the Select Board's policies regarding tax-acquired property.

The municipal objectives of this Policy are to:

A. Allow tax-acquired property to return to the tax rolls as soon as practicable.

B. Establish a clear policy for the public and Town staff regarding the procedures for the disposition of tax-acquired property.

C. Eliminate neighborhood blight, recognizing that the longer a building or lot remains vacant, the more likely it will become a target for undesirable or illegal activity.

D. Preserve property values, recognizing that long-term vacancy of a building or lot leads to deterioration and costly rehabilitation.

E. Comply with state law requirements for the disposition of tax-acquired property in 36 M.R.S.A. § 943-C, as amended, and constitutional principles governing the disposition of tax-acquired properties, including as set forth in the U.S. Supreme Court decision in *Tyler v. Hennepin County*, 598 U.S. 631 (2023).

Section 2. Definitions:

For purposes of this Policy, the following terms have the following meanings:

A. Former Owner: The owner or owners of record at the time of foreclosure or, if deceased, the former owner's heirs, devisees, or personal representatives.

B. Tax-Acquired Property: Real estate acquired by the Town of Casco for the nonpayment of property taxes through the tax lien mortgage foreclosure process set forth in 36 M.R.S.A. §§ 942-943.

Section 3. Eligibility, voter approval, and manner of disposition:

A. Eligibility for Disposition. A tax-acquired property is eligible for disposition by the Select Board following completion of the foreclosure process and expiration of the right of redemption, and following voter approval in accordance with Part III.B.

B. Voter Approval. To secure voter approval for the disposition of tax-acquired property, the Select Board will place an article in each annual Town Meeting warrant in substantially the following form or in such other form as prepared by the Select Board in consultation with the Town Attorney:

Article __. To see if the Town will vote to authorize the Select Board to dispose of tax-acquired property (1) in accordance with Title 36, Section 943-C of the Maine Revised Statutes, as may be amended, or (2) should the Select Board be unable to list or sell the property pursuant to Section 943-C, in any manner reasonably calculated by the Select Board to establish the fair market value of the property. For sales to someone other than the former owner, excess sale proceeds, as calculated pursuant to Section 943-C, shall be returned to the former owner.

For the retention of property for municipal purposes, the Select Board will place a specific article in the applicable annual Town Meeting warrant in such form as prepared by the Select Board in consultation with the Town Attorney.

C. <u>Manner of Disposition</u>. The Select Board will meet a minimum of once every January to review a list of tax-acquired properties from the prior year and determine which properties to offer for sale to the former owner, which properties to retain for municipal purposes, and which properties to sell at fair market value.

1. <u>Former Owner Sales</u>. The Select Board may sell a tax-acquired property to the former owner using the process in Part IV.A.
2. <u>Retained Properties</u>. The Select Board may retain a tax-acquired property for municipal purposes (including but not limited to open spaces, public improvements, parks and recreation, public safety, governmental services, and education) using the process in Part IV.B.
3. <u>Fair Market Value Sales</u>. All tax-acquired properties other than sales to former owners and properties retained for municipal purposes must be sold using the process in Part IV.C.

Section 4. Procedures required prior to the disposition of tax-acquired properties:

A. **Staff Review**

Town staff will review all tax-acquired (foreclosed) properties and prepare a comprehensive report for the Selectboard. The report will include the following information for each property:

1. Current assessed value
2. Outstanding taxes owed
3. Property condition
4. Development or building opportunities (if applicable)
5. Buildability of the lot (if land only)
6. Applicable zoning limitations
7. Any additional information requested by the Selectboard

B. **Selectboard Action**

Upon receipt of the staff report, the Selectboard will determine whether:

1. Immediate disposition of the foreclosed property is necessary, **or**
2. The property should be referred to other Town committees for recommendations on potential disposition.

Section 5. Procedures for the disposition of tax-acquired properties:

A. Former Owner Sales. The Town Manager must, in consultation with the Town Attorney, negotiate with the former owner the terms and conditions of such sale. The sale price must equal the sum of the factors identified in Part V.A (1)-(7) for the calculation of excess sale proceeds. If the sale to the former owner is not completed, the property must be sold using the procedures in Part IV.C.

B. Retained Properties.

1. Appraisal Report. The Treasurer must procure an appraisal report from a Maine-licensed real estate appraiser showing the value of the tax-acquired property. The appraiser may not hold an elected or appointed office in the Town or be otherwise employed by the Town.
2. Notice to Former Owner. The Treasurer must provide a notice to the former owner of the Town's intent to pay excess sale proceeds as described in Part V.B.
3. Payment of Excess Proceeds to Former Owner. The Treasurer must pay the former owner any excess sale proceeds as calculated in Part V.A, substituting the value of the tax-acquired property as shown in the appraisal report for the selling price of the tax-acquired property. The appraisal fee may be included in the calculation of excess sale proceeds. Any such excess sale proceeds must be paid to the former owner no later than 120 days after the appraisal report is prepared.

C. Fair Market Value Sales. All tax-acquired properties other than former owner sales and retained properties must be sold using the following process:

1. Pre-Sale Notice of Sale Process. At least 90 days prior to listing a tax-acquired property for sale, the Treasurer must send a written notice to the last known address of the former owner, by United States Postal Service certified mail, return receipt requested, and first-class mail, of the sale process described in this Part IV.C. The Treasurer must use the form of notice prepared by the State Tax Assessor, if available.
2. Manner of Sale.
   (a) Real Estate Listing. The Town Manager must list the tax-acquired property for sale at the highest reasonable price at which the property is anticipated to sell with a licensed real estate broker or agent. The broker or agent may not hold an elected or appointed office in the Town or be employed by the Town.
   (b) Alternative Sale Process. If, after three attempts, the Town Manager is unable to contract with a real estate broker or agent for the sale of a tax-acquired property as described in subsection (a), above, or the broker or agent is unable to sell the property within 12 months after listing, the Select Board may sell the property in any manner reasonably calculated by the Select Board to establish the fair market value of the property. Such manner of sale may include, but is not limited to, sale by sealed bid or public auction.
3. Property Conveyance.
   (a) The Select Board must convey the tax-acquired property to the successful buyer at the highest price at which the property is able to sell within 12 months after listing it for sale with the broker or agent.
   (b) The successful buyer will be given no more than 30 days to complete the purchase of the property.
   (c) The property must be conveyed by quitclaim deed.

(d) The Treasurer must notify the Town Assessors of the conveyance of a tax-acquired property.

Section 6. Excess sales proceeds:

For any tax-acquired properties that are retained for municipal purposes pursuant to Part IV.B or sold pursuant to Part IV.C, the Treasurer must pay the former owner any excess sale proceeds in accordance with this Part V. Excess sale proceeds must be calculated and disbursed as follows:

A. Calculating Excess Sale Proceeds. The Treasurer must calculate the amount of any sale proceeds in excess of:

1. The sum of all taxes owed on the property;
2. The sum of all taxes that would have been assessed on the property during the period following foreclosure when the property is owned by the Town;
3. All accrued interest;
4. Fees, including advertising, mailing, recording, property listing and real estate broker's or agent's fees, to the extent that those fees are not included in the broker or agent fee agreement;
5. Any other expenses incurred by the Town in selling, maintaining, or improving the property, including but not limited to documented administrative costs and reasonable attorney's fees;
6. The cost to the Town of the lien and foreclosure process, including but not limited to reasonable attorney's fees; and
7. Unpaid sewer, water, or other utility charges and reasonable fees imposed by the Town.

B. Post-Sale Notice of Intent to Pay Excess Proceeds.

If, after the sale of a tax-acquired property, there exist any excess sale proceeds as calculated in Part V.A, the Treasurer must send written notice of the Town's intent to pay the former owner the excess sale proceeds at least 30 days prior to disbursement of those proceeds. The notice must be sent by first-class mail and certified mail, return receipt requested, to the last known address of the former owner and the last known address of each record holder of an interest in the tax-acquired property. To ascertain any such record holder, the Treasurer must obtain a current owner title search on the property.

If the Treasurer is unable, after reasonable diligence, to locate the former owner in order to send the notice required by this section, the Treasurer must place a notice in a newspaper of general circulation in Hancock County once a week for three consecutive weeks. The notice must include the name of the former owner, a description of the tax-acquired property that was sold, the amount of the excess sale proceeds, and the date by which the excess sale proceeds must be claimed.

C. Disbursement of Excess Proceeds. The Treasurer must disburse any excess proceeds calculated in Part V.A to the former owner no sooner than 30 days after sending the post-sale notice of intent to pay pursuant to Part V.B. If the Treasurer is unable, after reasonable diligence, to locate the former owner and instead publishes the notice pursuant to Part V.B, and if, after provision of such notice, a former owner fails to claim the excess sale proceeds within 30 days of the final published notice, the Treasurer must transfer the excess sale proceeds to the Unclaimed Property Fund under 33 M.R.S.A. § 2141.

D. <u>Recording Notice of Payment in Registry of Deeds</u>. Within 10 days of payment of any excess sale proceeds to the former owner, the Treasurer must record in the Hancock County Registry of Deeds a notice, signed by the Select Board, that includes the name of the former owner to whom the excess sale proceeds were paid, the amount of the excess sale proceeds, the date on which the excess sale proceeds were paid, a description of the tax-acquired property that was sold, and a statement that receipt of the excess sale proceeds by the former owner is deemed to be a waiver of the former owner's right to commence any action challenging the governmental taking of real estate for nonpayment of property taxes pursuant to 36 M.R.S.A. § 946-B. The Treasurer must use the form of notice prepared by the State Tax Assessor, if available.

E. <u>Accounting</u>. The Treasurer must retain an accounting of the calculation and payment of any excess proceeds to a former owner or to the Unclaimed Property Fund in the Town's permanent records. At the former owner's request, the Treasurer must provide to the former owner a written accounting of the amount of excess sale proceeds itemizing any deductions made under Part V.A.