IT'S PROPERTY TAX SEASON – TO BUY OR NOT TO BUY A TAX CERTIFICATE

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It's property tax time and in some cases the payment of one's property tax is not accomplished either because the tax is greater than the value of the property or the owners abandoned the property for personal reasons. When this happens, the County Tax Collector in Florida has the right to put the property up for sale in an effort to collect the tax revenue due on the property. This is initially accomplished by selling a tax certificate to a willing prospector looking to acquire the land or make a 12% profit on their money.

To start with, each year (usually in the month of May/June), the tax collector will publish in the local newspaper a list of all properties that are delinquent in the payment of their property taxes. This gives notice to the general public of what property is delinquent on its taxes and is available to have a tax certificate purchased. What the tax certificate does is gives the buyer of such certificate the right to either buy the land or be repaid from the actual owner of the property when the tax is paid or from the bid on the property when it is sold. Think of the certificate as a mortgage on the land that will either foreclose in your favor or be satisfied by the actual owner should he or she elect to recover it before being sold.

Usually, the time line for the actual owner to wake up to the fact that they are about to lose their property is two years of consecutive delinquency. Thus, if in 2019, you fail to pay your property taxes, the land will be sold to the highest bidder in 2021 should the delinquency not be satisfied before then.

Using the above example, in 2021 the following things would have occurred before the property will go on the sale block; the tax collector will notify by a report to the Clerk of Court the current titleholder to the property, any lien holder (even those situations where a mobile home is parked on the land), any mortgagee or other vendor who is listed to receive notice of a delinquent property tax, and the name of any individual or entity who is being assessed on the tax roll. In essence, anyone known to have some connection to the property. Failure of any of the property lien holders to notice the Clerk of their interest in the property and amounts owed to them can result in such interest being extinguished should a tax deed be issued. Therefore, if you are one of those interested parties, be sure and pay attention to your investment.

The Clerk of Court will then take the report and make every effort to notify the person or entity of the possible loss of the property and the remedy to prevent such loss. The Clerk will send by certified mail (to assure the interested party got the notification) to all parties listed on the above referenced report or by service of process at either the present property or at the owner's last known address of the possible loss of the property to a tax sale. The Clerk will also record a notice of tax deed application in the county official records and lastly publication of the notice of the application for a tax deed and its sale date in a local newspaper. The publication will last 4 consecutive weeks where the property is located.

If the original owner of the property fails to do anything, the property will be sold (usually to the certificate holder) by auction to the highest bidder who will receive a tax deed issued by the Clerk of Court. The sale of the tax deed eliminates any prior assessments or liens not previously filed with the exception of sanitation liens filed by the county.

To get good title to the property, a tax deed holder will usually file a complaint with the court to quiet title to the property. This can prove quite daunting because the original title holder will need to be located and served with a summons and complaint. If the property owner is deceased, then the descendants of the original owner must then be found and served. This can create a real problem if the next of kin were not notified which could lead to the possibility of the tax deed being set aside (however, this rarely happens) for lack of notice. Alternatively, the tax deed holder can elect to do nothing, wait 4 years following receipt of the tax deed where Florida's statute of limitations will automatically clear title.

On the other hand, if a tax deed is set aside and the original owner recovers the property, the original certificate holder is reimbursed what he or she spent on the property including 12% interest on that investment. This could also include any improvements made to the property

By this time, you probably have come to the conclusion that an investment in a tax certificate and ultimate tax deed is a safe bet. It certainly is safer than placing your money on the roulette wheel or any gambling game of chance. You just have to be patient.

If you have ever considered purchasing a tax delinquent piece of property and are not sure about the ultimate outcome, contact the attorney of your choice and review with him or her the subject property and the possible outcomes. It certainly has a higher winning percentage than any other game of chance.