

TO: THE COMMON COUNCIL

DATE: January 20, 2011

FROM: THE DEPARTMENT OF  
AUDIT & CONTROL

SUBJECT: In Rem 44 Auction Report

The City of Buffalo In Rem 44 Auction took place on October 25, 26 and 27, 2010 at the Buffalo Convention Center. Properties, lots and other parcels that were delinquent on Fiscal Year 2008-2009 city taxes and fees were auctioned. The auction number is sequential and increases each year. The winning bidder is absolved of all prior debts on the property acquired. However, any housing court issues related to the property become the responsibility of the new owner.

A property can be included on the In Rem 44 foreclosure list for one or more criteria:

- City of Buffalo Property Taxes in arrears
- User Fee Payments in arrears
- Water and Sewer Bills in arrears

Current property owners are notified that they will be included on the foreclosure list if arrears payments are not made current. A property owner can be removed from this foreclosure list as late as the day of the auction by:

- Becoming current on their arrears
- Arranging for a court order payment plan
- Entering bankruptcy protection

While we find the In Rem auction to be professionally run and organized, we offer this report to further inform the Council and general public about this annual event, and provide our observations and suggestions for future improvements where possible.

If you have any further questions on this matter, please feel free to contact the Department of Audit and Control.

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DEPARTMENT HEAD: Andrew A. SanFilippo

TITLE: *Pr* Comptroller

SIGNATURE: \_\_\_\_\_



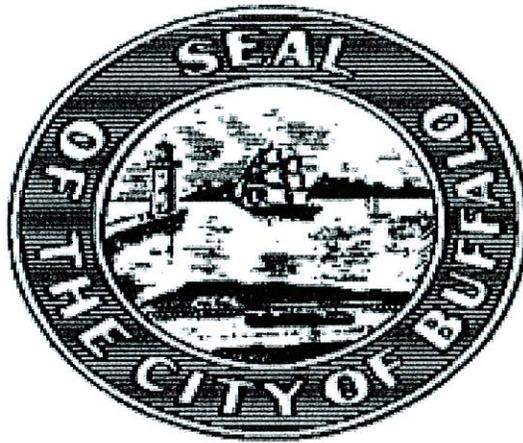
CITY OF BUFFALO  
DEPARTMENT OF AUDIT & CONTROL

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IN REM 44 AUCTION REPORT  
OCTOBER 25, 26, 27, 2010

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**COMPTROLLER**



DARRYL McPHERSON  
CITY AUDITOR

## BACKGROUND INFORMATION

The City of Buffalo In Rem 44 Auction took place on October 25, 26 and 27, 2010 at the Buffalo Convention Center. Properties, lots and other parcels that were delinquent on Fiscal Year 2008-2009 city taxes and fees were auctioned. The auction number is sequential and increases each year. The winning bidder is absolved of all prior debts on the property acquired. However, any housing court issues related to the property become the responsibility of the new owner.

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The primary scope of this audit report was the 2010 In Rem 44 financial information and auction results. For comparative purposes 2009 In Rem 43 auction proceeds are referenced.

All City of Buffalo In Rem Auctions involve a great deal of coordination among many City Departments. The Department of Assessment and Taxation is the lead department, identifying the properties for auction and setting the starting bid. The Treasury Division accepts, deposits and receipts all auction proceeds. The Director of the Treasury is the Auctioneer. The Division of Audit audits the validation of the winning bid amount and the receipt and recording of the payment. The Management Information Systems Department (MIS) manages the technical needs of the Auction through a contract with an outside vendor Algonquin Studios whose customized software known as SIRF (System In Rem Foreclosure) provides the infrastructure to manage the Auction. Algonquin technical support personnel are on site during the auction. The Law Department also has a representative present.

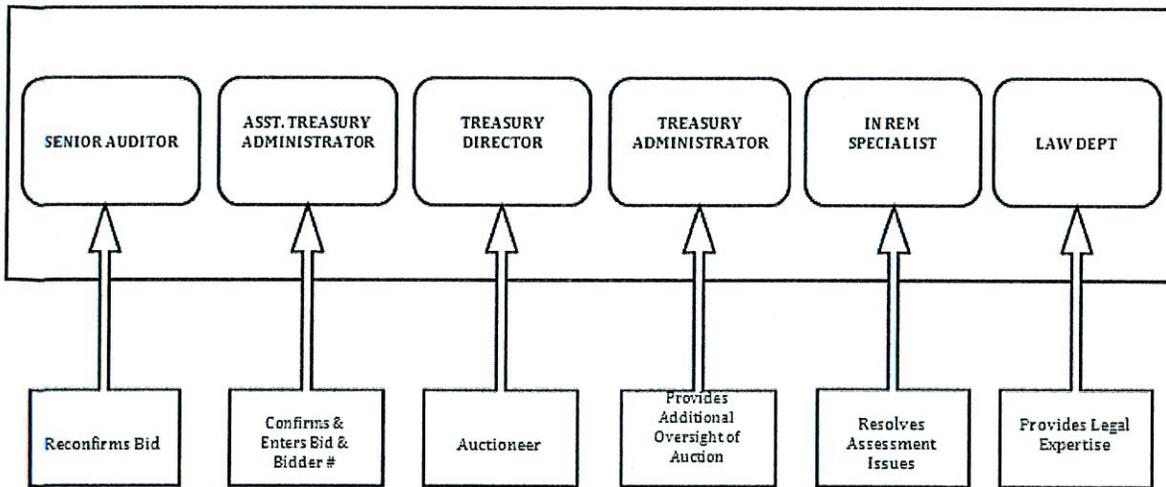
Other departments contributing manpower to the Auction include the Buffalo Sewer Authority, the Division of Accounting and the Department of Public Works, Parks and Streets.

## Convention Center Auction Logistics

To participate in the auction, all bidders must register. There is no charge. Registration can be done in advance online or at the auction. All bidders sign in the day of the auction in the lobby of the Convention Center and receive a bid paddle with a number.

The main auction room is set up with an elevated auction table at the front of the room. The diagram below depicts the roles and responsibilities handled at the main auction table.

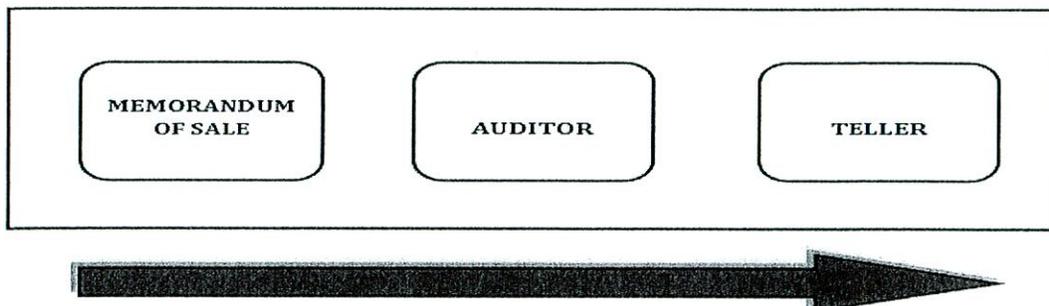
### HEAD AUCTION TABLE



The Director of the Treasury as the auctioneer announces the property and opening bid. If there is a successful bidder, the Assistant Treasury Administrator enters the successful bidder number and the final bid amount into the SIRF software on her laptop personal computer. The Senior Auditor confirms the bidder and the amount in the SIRF screen on his laptop personal computer. The successful bidder goes to a Payment area set up along the far side of the Auction Room.

The payment area was set up with four payment stations each staffed with a team of three individuals. The diagram below depicts the roles and responsibilities handled at a payment station.

**IN REM PAY STATION**



The Memorandum of Sale (MOS) person enters the bidder number in SIRF which displays the property successfully bid. The purchaser tells the MOS person the amount they will pay, e.g. minimum due 20% of the purchase price, full payment or an amount between the minimum and full payment. The MOS contract is printed in duplicate and the bidder/purchaser signs both copies. The Auditor is given the signed Memorandum of Sale which is reviewed for the amount to be paid. The MOS is given to the Treasury Teller who takes the payment from the purchaser, records the receipt in SIRF, stamps the MOS as paid, retains one copy and returns one copy to the Purchaser as a receipt. Each teller has an open cash drawer where the cash is kept. As the day progresses the teller bundles the cash and balances to the SIRF total. At the end of each day the tellers balance their total receipts. The auditors monitor the teller’s revenue reconciliation. A bank deposit slip is filled out by the Teller and the money is placed in a deposit bag in the possession of a Treasury Administrator. The deposit is brought to the Treasury Teller Room in City Hall by the Treasury Administrator under police escort. The deposit is then picked up by armed guards and deposited into the M&T Clearing Account.

**Initial Auction Totals 2010 versus 2009**

	2010	2009	Variance	
	InRem 44	InRem 43	Amount	%
Winning Bid Totals	\$5,993,100	\$4,570,400	\$1,422,700	31%
Number of Successful Bids	1,039	826	213	26%
Number of Properties Auctioned	1,914	3,304	(1,390)	-42%
% of Properties Successfully Bid <sup>1</sup>	54%	25%		
Average Bid Amount	\$5,768	\$5,533	\$235	4%

<sup>1</sup> Successfully Bid, Closing is then contingent on Complete Payment

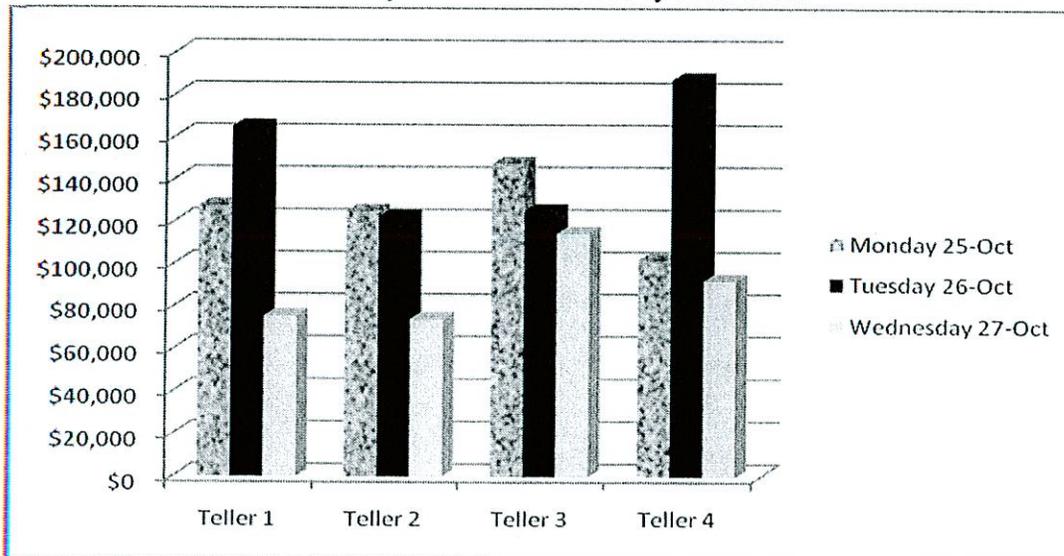
Based on prior year's experience, a certain percentage of the bids will not close. Buyers may opt not to complete the purchase or previous owners may obtain last minute bankruptcy protection. Of the 826 properties successfully bid in the 2009 In Rem 43 Auction, 84% actually closed; this equated to \$3.9 million of the original \$4.6 million bid. Proceeds from the auction are applied to past due amounts owed to the City and the County. If the bid amount exceeds the amount owed the surplus is turned over to the Erie County Comptroller for a period of 5 years. During the 5 year period, lien holders may petition for money owed to them. Subsequent to the 5 year period, any remaining funds are turned over to the State of New York. During fiscal year 2010 the City of Buffalo remitted \$1.4 million to the County related to surplus In Rem 43 funds.

**Proceeds from In Rem 44** The total amount paid on auctioned properties during the 3 day period totaled \$1,457,765. This amount is broken down into \$1,446,790 for foreclosure fees and \$10,975 for filing fees. A remaining balance of \$4,535,335 was pending at the conclusion of the auction on the 1039 properties purchased during the auction. Bidders had until December 18, 2010 to pay any remaining balance.

Auction Proceeds During Auction

	Mon 25-Oct	Tues 26-Oct	Wed 27-Oct	Total
Teller 1	127,380	164,985	75,355	367,720
Teller 2	124,825	122,580	74,000	321,405
Teller 3	147,570	125,210	114,520	387,300
Teller 4	101,825	187,310	92,205	381,340
Totals	\$501,600	\$600,085	\$356,080	\$1,457,765

Auction Day Proceeds Processed by Each Teller



- **Revenue received from selling In Rem 44 property listing**

Auction participants who wish to purchase an up to date list of the properties which will be offered are required to pay a \$5.00 fee for this information. Most lists are purchased at registration. The amount of money taken in during the three day auction is directly deposited into the foreclosure fee account. Based upon the amount of money that was deposited into the Treasury from the sales of these lists, \$6,565 was verified by auditors in the MUNIS system. This equates to approximately 1,313 foreclosure listings sold at the \$5 price.

A \$265 invoice showed 500 lists were printed in the Print Shop. Auditors were told the remaining lists were printed on copiers in the Assessment Department. To aid in the internal control of this revenue, we recommend some controls be implemented to track the quantity of lists printed and the associated revenue. In this manner, matching items sold to revenue would be greatly enhanced.

- **Number of paddles not returned at the end of the three day auction.**

When an individual registers at the auction they are assigned a bidding paddle. They sign a form stating that it must be returned by the end of the auction or they will be charged \$20 for any non-returns. When we followed up on how many paddles were not returned, we were told by the Department of Assessment and Taxation that they were first going to make phone calls to the people who had not returned the paddle. If there was no response to return the paddle, an invoice would be sent to the individual's home for the \$20 fee. We feel that a small deposit fee would encourage customers to return paddles at the end of each auction day.

#### **Auditor Observations and Recommendations regarding In Rem Auction 44.**

- First day setup of computers at Memorandum of Sale table was delayed nearly one and a half hours after the auction started due to dual use in registering bidders in the lobby. A cost benefit analysis of renting additional computers to eliminate sharing should be done.
- The police presence should be strategically placed to create a stronger sense of security. Positioning the police near the entrance, the auction table and the In Rem pay station would heighten the notion that the proceeding is being monitored and reduce the likelihood of unruly disturbances.
- A General Information booth should be centrally located at the auction. This could be a place where all departments related to auction activity could be available to answer the many questions that arise throughout the day.
- Preregistered bidders should be able to enter the auction at an express table, thereby reducing the crowd of bidders at registration.

- The final sale area could use more than one omnipresent manager to direct traffic, address bidder concerns and otherwise be available to handle issues not directly involved with individual sale transactions. Treasury positioned an assistant administrator in this role during the auction. An additional person would be helpful.
- Signage directing bidders where to go for specific inquiries should be used throughout the Convention Center. Signs at the auction were either waist level, hand-made or not present at key locations for the auction.
- The identification process at registration is very time consuming along with the number of forms that must be signed by bid participants. Information scanning should be explored which could be uploaded into the SIRF software, thereby decreasing misspellings and input errors.
- During the auction, personnel at the Memorandum of Sale position were not consistent in the directions given to buyers on what lines should be signed on the MOS.
- Winning bidders who declare they made a mistake on being the winning bid should be disqualified from bidding if they repeat the mistake twice during the course of the auction. One error in bidding is entirely plausible, but numerous times during the auction could lead to a bid scam of a property hoping to get the property for far less with the help of another bidder.
- Cell phone usage at payment table should be contained. Customers should be asked to move out of line until they are ready to complete the transaction of purchasing the property. Too many distractions lead to errors and causes delays in the payment process.

### **Conclusion with Recommendations**

In Rem Auction 44 proved to be one of the busiest auctions in recent history. A total of 1039 parcels were sold clearly outpacing In Rem 43 by 26 %. Close to 50% of the properties and lots up for auction in 2010 were bid successfully. Consequently, auction commitments grew close to the six million dollar mark. Beautiful weather, the economic climate, low interest mortgage rates and individuals searching for bargains may have led to these record totals.

The Audit focus going into the auction was how revenue payments were monitored for accuracy. The SIRF (System In Rem Foreclosure) software enables an accurate and reliable record of the sale. It should be noted there were no Teller Shortages during the course of the auction, an excellent accomplishment.

Another cash item of Audit interest was the sale of City of Buffalo In Rem 44 property listings for \$5.00. Next year we feel that an opening inventory and closing inventory of these lists be verified by an auditor at the beginning and ending of each auction day. This would

provide a more accurate number of items sold and revenue received. A separate table could be set up to sell these lists to potential bidders without causing delays at the registration table.

We also feel the police presence should be enhanced. The sense of security would increase if an officer was posted at the entrance of the auction site and another armed officer was positioned behind the Tellers. Convention Center doors directly behind the Tellers should be securely closed.

Signage with clear directions along with an Information Booth manned by knowledgeable City department staff would be beneficial. A FAQ (frequently asked questions) handout should also be developed to inform potential bidders about the auction experience. This would definitely help quiet the hectic front auctioneer table.

We feel the other suggestions and observations mentioned earlier in this report could add positive results for auctions going forward. Overall the auction process has advanced significantly from its infancy and progressed to become an effective and professional operation. These suggestions are meant only to enhance the auction experience into the future.