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ESTATE PLANNING FOR THE PRESERVATION OF INTERGENERATIONAL WEALTH AND AFFORDABLE HOMEOWNERSHIP:

BEST PRACTICES GUIDE FOR NEW YORK ADVOCATES



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I. Introduction

This guide is intended to serve as a resource for legal advocates and housing counselors working at the intersection of estate planning and homeowner stability services, a wide-ranging practice area crucial to the preservation of affordable homeownership, and the accumulation and transfer of intergenerational family wealth. As discussed in greater detail below, the need for effective legal advocacy in this multifaceted field is reflected in the United States' long history of property loss, especially in communities of color, as well as current events and trends such as the impact of COVID-19, a persistent racial wealth gap, and predatory schemes to strip ownership of family homes from their rightful owners. This guide aims to provide a fundamental, comprehensive understanding of the many moving pieces often at play when evaluating how best to assist a homeowner seeking to retain ownership of their family home, whether that means establishing long-term security by ensuring the transfer of homeownership to heirs as intended through estate planning, or litigating against, and negotiating with, parties such as foreclosing banks and predatory investors. This guide aims to encourage greater collaboration between these legal fields, which in practice can be siloed and lack the context that a more unified perspective can bring, to provide the best possible level of advocacy for homeowners, families, and communities that we serve.

II. What is Estate Planning and Why is it Important for Homeowners?

Estate planning is the act of memorializing decisions regarding the disposition and control of a person's assets in the event of their death or incapacity. It is also referred to as "life planning" because it includes the memorialization of decisions with respect to health care, property, and financial matters via legal documentation that is effective during one's lifetime.

Estate planning is crucial for homeowners because one's home is often their most significant asset.[1] Proper estate planning for homeowners ensures the preservation of

intergenerational wealth by avoiding tangled title, ensuring that the disposition of property is handled according to a homeowner's wishes, and that their loved ones are protected and empowered in the event of the homeowner's illness, death, or other unforeseen circumstances.

III. Tangled Title

Title to real property is "tangled" when the legal ownership of real property is unclear, disputed, or difficult to establish due to various legal, procedural, or fraudulent complications. These issues can arise from multiple sources, including:

- **Unresolved Estates:** The property remains in the name of a deceased owner without a clear transfer of title to heirs, often due to intestacy, meaning the homeowner passed away without a validly executed will, or incomplete probate proceedings.
- **Multiple or Fractional Owners:** Ownership is divided among several individuals, often over generations, without clear agreements, leading to disputes or practical difficulties in managing or transferring the property.
- **Fraudulent or Problematic Recorded Documents:** Scammers or bad actors may have recorded documents, such as memoranda of contract, fraudulent deeds, or unauthorized encumbrances, clouding the title and creating legal hurdles to clear ownership.
- **Unresolved or Unsatisfied Liens:** Tax liens, judgment liens, mortgages, or other encumbrances remain on the property due to lack of proper satisfaction, improper recordings, or disputes over repayment, affecting the ability to transfer or refinance the property.
- **Errors or Gaps in the Chain of Title:** Clerical mistakes, missing deeds, conflicting records, or improperly executed conveyances can make proving ownership difficult.

Tangled title is problematic because it can lead to the loss of real property, the loss of individual and intergenerational wealth, and the socio-economic degradation of communities. For those reasons, it is essential that advocates be able to identify, prevent, and address tangled title issues.

Resolving a tangled title often requires legal action, such as probate proceedings, quiet title actions, deed corrections, or fraud litigation, to restore clear and marketable title to the rightful owner. This guide is intended to help attorneys working in homeowner defense, estate planning, and real estate law, identify these issues and navigate the legal remedies available to both prevent and address tangled title and the real-world complications that stem from it.

IV. Estate Planning Tools

Proper estate planning is nuanced and must be approached by practitioners on a case- by-case basis – there is no one-size-fits-all approach to estate planning. Different clients will have different needs, which can be addressed via a variety of estate planning tools available to homeowners in New York State. These estate planning tools are summarized below.

a. Estate Planning via Deed

One tool to prevent tangled title in the context of multiple owners is to specify the appropriate property ownership structure at the outset—in the homeowner's deed. There are several different forms of real property co-ownership:

- In a "tenancy in common", in the absence of language stating otherwise[2], each owner owns an equal share of real property. This is the default form of property ownership in New York.[3] Each tenant has the right to possession and use of the entire property,[4] and profits and costs are shared equally.[5] Any owner can transfer part or all of their share without the permission of the other owners, a fact that can result in complex tangled title issues. See V(e) for further discussion on heirs property. When an owner dies intestate, their share passes to their heirs pursuant to state intestate succession laws.

When multiple family members own real property together as tenants in common, having a written tenancy in common agreement is crucial. This type of agreement helps surviving heirs clarify and formalize their respective rights and responsibilities regarding the property. It can outline each co-owner's share of ownership, how decisions will be made about property maintenance, who is responsible for paying ongoing expenses such as property taxes, insurance, and repairs, and how any rental income will be collected and distributed. Without such an agreement, disagreements or misunderstandings about financial obligations or property use can lead to family conflict, deferred maintenance, or even forced sales through partition actions. A tenancy in common agreement provides a valuable tool for co-owners to preserve family assets and promote stewardship of inherited property.

- In a "joint tenancy with right of survivorship", each co-owner owns the real property entirely until either (1) an owner transfers their share, making remaining owners tenants in common or (2) an owner dies, in which case their share transfers to the surviving co-owner(s). When a co-owner transfers their share, the other co-owners can sue for partition-in-kind of the property, or a partition-by-sale.[6] See section V(e) for further a further discussion of partition.
- "Tenancy by the entirety" is the default ownership structure for couples who are married at the time they acquire property.[7] When one spouse dies, their share passes to the surviving spouse, free of encumbrances, and neither spouse can disinherit the other through a will. If the couple divorces, they become tenants in common (discussed above).

Practitioners can ensure the appropriate ownership structure and help homeowners avoid tangled title by specifically and clearly designating the ownership structure in the deed itself. For example, to be effective, a deed intended to establish a joint tenancy with rights of survivorship must state "…from [Transferor] to [Transferees] as joint tenants with the right of survivorship". The practitioner can provide even further clarity by adding language that the co-owners are not tenants in common…". By proactively selecting the right ownership structure, homeowners can minimize the risk of title complications, reduce disputes among heirs, and ensure a clear, marketable title for future transfers.

Another effective tool for preventing tangled title is the use of estate planning deeds that allow for a smooth transfer of property upon the owner's death without requiring probate. These include:

- Life Estate Deed: This deed allows the owner (the life tenant) to retain the right to live in and control the property and even mortgage it during their lifetime while designating a remainder beneficiary who will automatically inherit the property upon the life tenant's death. This structure eliminates the need for probate but requires careful planning, as the life tenant's ability to sell or mortgage the property may be restricted without the consent of the remainder beneficiary.

- Transfer on Death (TOD) Deed: As of the passage of New York's Heirs Property Protection and Deed Theft Prevention Act,[8] homeowners can also transfer ownership via a Transfer on Death Deed. This revocable deed allows a property owner, known as the transferor, to designate a beneficiary (or multiple, or an alternate) who will receive ownership of the property automatically upon the owner's death. Until then, the owner retains full control and can revoke or modify the deed at any time. Because the transfer occurs instantly at death, it avoids probate while still allowing the owner maximum flexibility during their lifetime.

- Heirship Deed: The surviving heirs of a deceased homeowner have an ownership interest in the home that transfers to those heirs immediately by operation of law, unless the decedent has a validly executed will that states otherwise. However, banks, loan servicers, government agencies, title companies, and other institutions with an interest in confirming legitimate ownership of a home often require a more formal record of ownership. While an heirship deed is more a tool for estate resolution than an estate planning tool, similar to an executor's deed, this type of deed allows heirs of an intestate decedent to publicly record their ownership interest as heirs of a deceased homeowner. By inserting themselves into the chain of title in this fashion, heirs can bypass the need to petition the Surrogate's Court for probate or administration, saving time and money while ensuring a smooth transition of property ownership and gaining access to services, programs and accounts related to the home that they were not able to utilize prior to being on title.

Estate planning via deed allows a homeowner's heirs to quickly and efficiently resolve disputes, rather than involving expensive, time-consuming, and possibly contested court processes. Estate planning also plays an important role in ensuring a homeowner's eligibility for services through Medicaid, such as long-term nursing home care, and preventing Medicaid's Estate Recovery Program from seizing the home to collect on medical expenses that accrued during the decedent's time in a Medicaid program.

BEST PRACTICES:

1. Complete due diligence to identify heirs and related parties and map out family trees
2. Collect birth, death and marriage certificates to confirm familial relationship
3. Collect two heirship affidavits from individuals that do not have an interest in the estate, like a clergy member, old family friend, or a non-lineal family member like a cousin or aunt
4. Collect copies of identification
5. Upon successful executing and recording the heirship deed, return originals of deed and all supporting documents to client for use in any subsequent transactions involving the home.

b. Wills & Trusts

Homeowners can plan for the distribution of assets in accordance with their wishes by laying them out in a Last Will & Testament—a legal document in which an individual outlines how their property will be distributed, and who is responsible for distributing it, after the homeowner's death. The Surrogate's Court is responsible for Probate – the legal procedure that effects the distribution of assets in accordance with a will. Probate can be time-consuming, costly, and public – it may be preferable to utilize a Transfer on Death Deed, for example, to handle the transfer of ownership of the home. New York's Estates Powers & Trusts Law [9] ("EPTL") governs the creation and administration of estates and trusts in the State of New York.

In the absence of a Last Will & Testament, property is distributed by the Surrogate's Court via Administration – the legal procedure for distributing assets in accordance with the laws of intestacy,[10] which may or may not result in a distribution of assets that aligns with the decedent's wishes. Unmarried partners, for example, do not have legal standing to inherit their partner's property via intestacy. Without the appropriate estate planning in place, they could be left with no claim to the property they call home. The EPTL defaults to a nuclear-family-oriented heteronormative distribution scheme in the event of intestacy that does not account for the nuance of non-traditional familial relationships. If a homeowner dies intestate, their property could go to relatives they may not have wished to inherit it, and whom may not have the ability or resources to retain the home as an intergenerational asset.

A trust is a legal instrument through which homeowners can protect their property, including their home, by transferring ownership of assets to the trust to shield it from creditors, ensuring their families are able to stay in the home rather than losing it to satisfy outstanding debts. Another benefit of placing ownership of the home into a trust is to minimize the estate tax burden on a homeowner's heirs, ensuring one's family doesn't have to sell the home to cover tax liabilities. In practice, especially for homeowners of moderate financial means and those with relatively simply estates, the cost and complexity of establishing a trust may be unnecessary. Fortunately for homeowners in these positions, and those representing them, there are a variety of alternatives available, as discussed here.

A Special or Supplemental Needs Trust is used to protect an individual's assets while still allowing them to qualify for needs-based government benefits like Medicaid and certain types of Social Security. This is especially important for homeowners who are or will need at-home care given that Medicaid covers much more than say, Medicare, for such individuals.[11] The income and asset restrictions that govern Medicaid eligibility would bar many homeowners from accessing Medicaid services but for the existence of a Special or Supplemental Needs Trust. These trusts can be created in or outside of the context of a Last Will & Testament and can be structured as an individual trust or a pooled trust. Pooled trusts are managed by nonprofit organizations and cover a wide range of expenses subject to the organization's rules and policies.

c. Advance Directives ("Life Planning")

An advance directive is a type of estate planning tool that lays out an individual's decisions related to how they want to handle their health care, property, and finances while they are still living (hence the moniker "life planning"). These are especially useful in the event of incapacity to ensure that an individual receives health care in accordance with their own choices. For homeowners, estate planning that includes a Power of Attorney can make the difference between keeping your home for yourself and preserving it for future generations or losing it altogether.

Medical advance directives include a Health Care Proxy and a Living Will. In a health care proxy, an individual appoints an agent to communicate with their health care providers on their behalf regarding health care decisions in the event of that individual's incapacity to communicate those choices themselves. An agent under a health care proxy is authorized to make decisions only in the event of incapacity, and only in accordance with the wishes of the person who granted that authority. Health Care Proxies are statutory and governed by New York's Public Health Law.[12] In a Living Will, an individual lays out their health care decisions with respect to the specifics of end-of-life care—this can include indicating whether or not they accept antibiotic treatment, whether they want to be intubated, etc., and other life-sustaining measures. A living will may be a useful tool especially for homeowners who may not have a health care proxy, and for those who do, it can help guide actions taken by an agent under a health care proxy.

A Power of Attorney is a legal document in which an individual gives someone they trust—an "agent"—the authority to act on their behalf with respect to financial decisions and transactions, property ownership, government programs and public benefits, and a variety of other matters. It enables one's agent to do things like access funds to pay bills, apply and recertify for government benefits that are necessary for the maintenance of financial stability and housing (Social Security, Medicare and Medicaid, Veterans Administration benefits, Public Assistance, etc.), access email and other personal accounts, and many other grants of authority.

For homeowners who become incapacitated, a power of attorney can help prevent foreclosure by (1) making sure the mortgage and taxes get paid and the home does not fall into disrepair (2) enabling homeowners to apply for mortgage relief and (3) maintaining a homeowner's ability to pursue things like loan modification or refinance as needed to preserve homeownership. powers of attorney are statutory and are governed by New York's General Obligations Law.[13]

In the event of incapacity and the absence of a power of attorney, in addition to being at risk of foreclosure, a homeowner may find themselves subject to a guardianship proceeding. Guardianship is a court process by which the court designates an individual or organization to handle the affairs of someone who has been deemed incapable of taking care of themself. Guardianship is a lengthy, invasive process, that can strip an individual of their autonomy and the right to act on their own behalf. Put differently, guardianship is what happens when it's too late for someone to designate a power of attorney because they no longer have the capacity to do so—which can also mean that they no longer have the capacity to make or communicate their own decisions. A homeowner with a power of attorney retains the authority to act on their own behalf—a homeowner under guardianship may not.

BEST PRACTICES:

1. Check what estate planning measures, if any, your client has already taken – do those measures still make sense considering the client's current circumstances? Were the documents properly executed?
2. When executing a joint tenancy: The key words of "right of survivorship" must be included, or the law will presume a tenancy in common.
3. When property is held as tenants in common, execute a tenancy in common agreement to clarify share of ownership, financial responsibilities, and property maintenance.
4. Determine if Medicaid eligibility is a current or future concern, and consult with an experienced elder law attorney or professional Medicaid planner if necessary Advise parties involved in a title conveyance to speak with an accountant about the potential tax implications of transferring away, or obtaining ownership of, what is likely to be an asset of substantial financial value.

5. Advise POA holders that, while copies of a POA are effective, parties to which the POA is being presented may require presentation of the original. For example, a bank may require presentation of the original POA, and also hold on to an effective copy of the original.
6. Consider how best to advise your client on storage of their life planning documents. For example, only the original will Last Will & Testament is effective. Will your client's executor be able to easily access the original when your client passes away? With respect to Health Care Proxies and Powers of Attorney, do your client's agents have, or can they easily obtain – the original and/or a copy in the event that your client is incapacitated?

V. Consequences of a Lack of Estate Planning

As described above, tangled title is often the result of a lack of proper estate planning. One of the primary goals of estate planning for homeowners is to prevent tangled title and the adverse consequences that stem from it, some of which are described below.

a. Loss of Wealth

New York City is primarily a city of renters, with a booming residential real estate market in which housing costs seem to increase endlessly. The reality is that homeownership is simply not a viable reality for most New Yorkers. Yet over 1 million New York City residents do own their homes, representing just over 30% of the City's total population.[14] For these New Yorkers and their families, homeownership is often the fastest way to ensure economic stability and build wealth. The preservation of homeownership helps families build intergenerational wealth over time and is essential to closing the economic and racial wealth gap.[15] Preserving homeownership also promotes stability for local communities and the many renters living in units in those family homes, and provides a counterweight to the recent trend of institutional and predatory investors buying residential homes en masse, which often results in the displacement of locals, increases in rent prices,[16] and creates a higher financial burden, and lower supply of available housing, for first-time homeowners looking to enter the market.

The uncertainty, loss of time, and loss of equity in the family home that can result from ineffective estate planning all present barriers to the full realization of the benefits of homeownership, such as accessing the value of the home's equity, or eligibility for property tax exemptions and other benefits. The risk of losing the home to predatory actors through partition and sale lawsuits, or deed theft and other similar real property-related scams, increases significantly in the absence of an estate plan and communication between co-owners/heirs. Confusion over who is financially responsible for mortgage payments, and who can afford those payments, puts the property at risk of foreclosure.

The loss of intergenerational homeownership we see today also contributes to a long history of discriminatory housing trends that have resulted in a greater economic and racial wealth gap, and less affordable housing. The loss of homeownership through predatory lending, deed theft, and equity stripping scams are common in historically minority neighborhoods.[17] These same neighborhoods were targets for racist housing practices and residential segregation, when, following the great depression, the federal government established an official policy of "redlining"—when the Federal Housing Administration ("FHA") refused to insure mortgages to black borrowers.[18] Redlining thus became the default practice of lenders who would not issue mortgages without FHA approval.[19] Lenders continue to engage in redlining today when they deny mortgages to a specific area "due to income, race, or ethnicity of its residents."[20] Similar racist housing practices contributed to the practice of "reverse redlining"—the issuing of subprime mortgages (mortgages with unfair terms designed to fail) in historically black neighborhoods—prior to the 2008 financial crisis.[21]

Estate planning failures can further exacerbate the loss of affordable housing for tenants who may reside in other units of the property. When heirs are unable to reconcile their diverging property goals, partition is often the only way forward. However, partition risks pushing tenants out and into the expensive and low-stock housing market.

b. Family Disputes

The absence of legally binding directives through effective estate planning can result in multiple family members holding fractured ownership interests in the family home, an obstacle to maintaining intergenerational ownership of the home when there are disagreements over what to do with the property. Even in situations where all heirs are on good terms, opinions may diverge greatly over what to do with the property. Some may wish to sell or be paid out for their interest by resident family members. Those who reside in the property often want to keep their home but lack the financial liquidity to buy out their family members.

When co-owners of a property disagree on the question of selling or keeping the home, the party looking to sell can commence a partition lawsuit to seek the court's permission to force a sale of the home at auction. This guide explores partition lawsuits in more detail below. See sections V(e) and VIII(b).

c. Inability to Obtain Homeownership Benefits

There are publicly available programs for homeowners to help with property taxes, utility and heating bills, home repairs, and disaster relief, although these programs may be unavailable when title is tangled. For example, if there are multiple owners of a property, not all may qualify for property tax exemption programs aimed at making property tax payments more affordable for low-income, elderly New Yorkers. Some programs may require clear, marketable title to be eligible and may refuse to consider applicants who are not formally on title by means of a deed recorded in the land records. See section VI(f) for further discussion of these benefits.

d. Foreclosure

The risk of foreclosure is heightened in situations where title to the family home is tangled. This can inevitably cause confusion as to who pays the mortgage, property repairs, home insurance, property taxes, co-op or condo fees, or utility bills. Some owners may refuse to pay while others may be unaware of their co-owner's failure to pay the bills. Foreclosure can threaten ownership and continued residence in the home, and strips equity. Less direct complications may also emerge, for example, an heir who resides in or has an intestate interest in the property may face complications when trying to obtain new credit if they have been named as a defendant in a foreclosure lawsuit. It is important to recognize this risk in order to better counsel clients when confronted with an intergenerational asset preservation case. The foreclosure process is described in detail in section VI below.

e. Heirs Property

In its broadest sense, heirs property refers to any real estate inherited from a deceased relative. However, the term is most commonly used to describe property that is owned by multiple individuals who acquired their interests through intestacy—when the original owner passed away without a valid will—or when a will was not properly probated, leaving the title legally unresolved. In such cases, each heir receives a fractional interest in the property under state intestacy laws, often leading to complicated coownership structures that can create barriers to property management, financing, and sale. The Uniform Partition of Heirs Property Act [22] ("UPHPA") also includes a very restrictive statutory definition of heirs property that requires the property to be real property acquired from a relative by multiple parties held as tenants in common with no tenancy in common agreement among other limitations.

Because heirs property is often undivided, meaning no single heir has a clearly defined physical portion of the property, disputes can arise over its use, maintenance, and potential sale. This form of ownership disproportionately affects historically marginalized communities, in both rural and urban areas, where lack of access to legal services and estate planning has contributed to generational property loss.[23]

After the death of the homeowner, both occupying and non-occupying heirs may find themselves facing foreclosure for nonpayment of the mortgage, and/or non-payment of property taxes. This makes heirs vulnerable to predation that can result in the loss of the home by all heirs. Until very recently in New York, predatory investors knew that if they could acquire one fractional share from one heir, they could then force a partition action through which they could acquire all remaining shares. This resulted in the forced relocation of occupying heirs, loss of intergenerational wealth, loss of community ties, and the overall degradation of communities—disproportionately communities of color.

In response to a growing tide of displaced homeowners of color as a result of predatory partition actions, New York enacted its own version of the UPHPA in December 2019. The New York UPHPA (NY RPAPL § 993) serves to further level the playing field and greatly improves the position of heirs property owners in general in a number of ways.

It expands the definition of heirs property to include any occupant regardless of the percentage of the interest they own. Procedurally, it requires court-monitored settlement conferences in the context of partition actions and gives heirs a second opportunity to file an answer within 30 days of the first conference. It gives heir-occupants priority over all other parties with respect to buyouts of the shares of other heirs and also allows the court to consider equitable factors in ownership determinations, including how the non-heir acquired their fractional interest.

In 2024, New York took things a step further by passing the Heirs Property Protection and Deed Theft Prevention Act of 2024.[24] This law preserves heirs property by restricting who can initiate a partition action and gives heirs a right of first refusal to purchase interests among other protections. In accordance with RPAPL § 993 (12)– (13), non-heir investors no longer have standing to initiate a partition action after July 19, 2024, although the prohibition is not retroactive. Prospective non-heir transferees must offer the same terms and conditions of purchase to all heirs, and the burden is on them to identify all other heirs for this purpose. There is also a 180-day period post-sale during which any previously unidentified heirs can buy back a fractional share at cost plus 2% interest. New York also enacted TOD Deeds in the same bill package.

f. Estate Planning for Co-op Shareholders

Some of the distinctive features relating to the non-judicial foreclosure process that governs co-op apartments, and the potential consequences for co-op shareholders and mortgage borrowers, are discussed in detail in Section VI(f). Here, the unique characteristics of co-ops in the context of effective estate planning are addressed. A co-op shareholder's ability to transfer ownership is commonly restricted by board approval and scrutiny, even when there is only one owner. The ability of an heir to establish succession rights may be further limited by the type of co-op.

In limited equity co-ops, housing is legally designated for households with low income. Limited equity co-ops include Housing Development Fund Corporations formed under the NYS Private Housing Finance Law Article 11 (HDFCs),[25] in addition to a shareholder needing board approval to transfer ownership, they may be limited to transferring to an income-eligible person with whom they have a familial relationship.

In Mitchell-Lama Co-ops (another form of a limited equity co-op formed under Article 2 of the NYS Private Housing Finance Law), it may also be the case that the transferee must have occupied the residence along with the shareholder for a set period. Some limited equity co-ops who are governed by regulatory agreements—usually those entered into between 2016 and 2023—may be required to use the City's "Housing Connect" lottery system to select a transferor which adds an impediment for heirs.

Transfer of limited equity co-op shares via a last will and testament, or via administration in the event of intestacy, can also be protracted and complicated by the length and complexity of probate/administration proceedings in Surrogate's Court, as well as the particular bylaws of the co-op with respect to transfer of ownership. While a homeowner may intend for an individual to inherit ownership of the unit and occupy the residence (known as succession), co-op bylaws may result in an intended heir being entitled only to proceeds from the sale of the deceased homeowner's shares and excluding them from possession and occupancy. HDFCs are also subject to a "flip tax", which limits the owner's ability to retain profits from selling the unit by imposing a percentage of the net sale proceeds that must be returned to the building. The amount of the flip tax varies from building to building and is intended to recognize the benefits the shareholder received as a result of living in an affordable HDFC unit with low maintenance fees.

Thoughtful estate planning can protect and preserve co-op homeownership, and practitioners are encouraged to carefully analyze the bylaws, proprietary leases and regulatory agreements (the latter of which can be found on ACRIS), and other applicable rules, especially for limited equity shareholder clients to create an effective estate plan. The heirs of a co-op shareholder whose last will & testament distribution scheme tracks with what is possible in accordance with co-op rules will be far better positioned to assume ownership and occupancy than the heirs of a shareholder whose last will and testament is general and did not take these rules into account.

Taking this a step further, it is not uncommon for tenant defense attorneys to have clients who are heirs of a deceased shareholder, who either co-occupied the home with the decedent or assumed occupancy after their death, and who are now facing eviction and are under the mistaken belief that they have the right to maintain occupancy.

Co-op shareholders can prevent their loved ones from finding themselves in this situation by taking steps in accordance with co-op rules to ensure that their heir(s) have the right to succession to ownership of the co-op shares, and if the co-op is Mitchell-Lama, to ensure the right to occupy the home. Estate planning practitioners should carefully read and understand the co-op bylaws and proprietary leases, especially pertaining to succession, so that they can advise their clients on how to facilitate their heirs' actual ability to own the shares *and* occupy the home.

Practitioners can also protect co-op shareholders by continuing to lobby for the legal and procedural protections that already extend to more traditional homeowners. A current area of focus among advocates is exploring ways to provide financial relief to HDFC cooperatives facing a protracted amount of time between the death of a shareholder and the legal determination of heirship. The expedited fiduciary appointment and transfer of the unit would relieve the financial burden that often passes to all shareholders and would ensure the ongoing financial sustainability of the cooperative, which is essential to the preservation of affordable housing.

g. Deed Theft, Predation and Scams

Homeowners are at risk of falling victim to predatory investors and other scammers, especially homeowners in particularly vulnerable situations, such as senior citizens and those under financial distress. Scammers may review and target properties based on publicly available, sensitive information such as lists of properties on the tax lien sale, and foreclosure and Surrogate's Court filings. Bad actors have heightened financial incentives to focus their efforts in areas with especially valuable real estate. A crucial aspect to effective homeowner advocacy is remaining vigilant and aware of these constantly evolving scams and predatory practices, sharing observations with other practitioners, and updating practices and proposing legislation to protect homeowners.

A common tactic for predatory investors is to target homeowners facing foreclosure and lure them into a bait-and-switch. Investors are often able to convince homeowners to enter arrangements in which they transfer ownership to the investor-buyer who agrees to allow the homeowner to retain occupancy while the investor resolves their delinquency. These agreements are often set up to fail, containing a date by which the homeowner must repay the investor to reclaim ownership or including some other onerous term to strip ownership and equity.

Another form of predation that homeowners face is foreclosure rescue scams, where predatory investors mimic legitimate assistance programs and pocket payments, or conduct short sales via fraudulent appraisals. Homeowners may also face hard money lenders—non-traditional lenders seeking investment opportunities, offering them short loan terms with high interest rates that are designed to fail. See section VI(b) below.

To account for the bait-and-switch mentioned above, New York passed the Home Equity Theft Prevention Act of 2006 (HETPA), which applies in the context of a sale involving an investor-buyer of a home in foreclosure.[26] HETPA lays out sale contract requirements to ensure a complete contract and the ability to cancel. Specifically, the sale contract must contain a provision allowing the homeowner-seller to buy back the property. Any sale that occurs without such a provision in the contract can be voided, or "rescinded", and the homeowner may have a cause of action against the buyer for damages. HETPA also restricts buyer actions during the cancellation period, for example, the buyer cannot pay the seller or record the deed during that time.

HETPA also criminalized deed theft for the first time in the state of New York by including penalties for intent to defraud, to address an epidemic of bad actors targeting homeowners disproportionately in communities of color. Generally, deed theft occurs when someone effects a fraudulent transfer of ownership to themselves or to an investor by either forging the owner's signature, or via a bait-and-switch by lying to the owner about what they are signing. The statute of limitations for deed theft actions is up to 5 years after the commission of the crime, or 2 years after discovery of the crime. As with other crimes, there are varying degrees of culpability depending on the value of the stolen property, the number and type of stolen properties, and whether extortion was a factor. HETPA also expands the definition of residential real property to include all real property occupied or intended to be occupied as a resident and gives the Office of the Attorney General of the State of New York concurrent jurisdiction with District Attorneys to investigate and prosecute deed theft.

Another important tool for the protection of homeownership is the Homeowner Protection Program (HOPP). HOPP was created in 2008 and was initially funded by New York State through 2011.

In 2012, the New York Office of the Attorney General further funded the program using $60M obtained by New York State via settlements with banks stemming from the national subprime mortgage crisis. HOPP funds 89 nonprofits statewide to provide legal and housing counseling services to homeowners to preserve affordable housing by addressing and preventing scams and foreclosure, providing estate planning, and other services. Ongoing maintenance of the network requires an annual funding push at the state level and most HOPP partners are actively lobbying for continued funding year-round.

HOPP has been integrated into legislation to an extent. RPAPL § 1304 requires that the 90-day pre-foreclosure filing notice have a list of HOPP partners in the area attached to it, and DFS must also maintain a statewide list comprised almost entirely of HOPP agencies. CPLR § 3408 also requires courts to provide homeowners with information about HOPP during the pre-settlement conference phase. In addition to general housing counseling and foreclosure prevention legal services, HOPP partners can help with deed theft prevention, violations of DFS servicer rules, identification of zombie properties, and applications for mortgage relief, property repair loan and grant programs, and disaster recovery programs.

BEST PRACTICES:

1. Untangle title if necessary – probate will, petition for letters of admin, heirship deed
2. Before undertaking an heirship deed or TOD Deed, understand the situation and objectives of all heirs:
   a. Do all heirs have the same objective for the property? Who will assume the mortgage, if any? Are there tenants in the property? Will rental income be used to pay the mortgage, property taxes, and water/sewer?
3. Screen new clients for homeowner benefits eligibility, such as property tax exemptions (SCHE, DHE, DRIE), and home energy assistance programs (HEAP).
4. In situations of coop inheritance, carefully analyze the bylaws and other applicable rules, especially for limited equity shareholder clients in order to create an effective estate plan.
5. Ensure that someone has the right to succession to not only ownership of the coop shares, but to occupy the home.
6. When litigating a partition action, confirm if property falls under definition of “heirs property” pursuant to the NY UPHPA.
7. If unable to settle a partition action, ensure that a proper accounting is held to reflect your client’s expenditures for home maintenance, repairs, mortgage payment, property taxes, and other expenses.

VI. Foreclosure Overview

New York is primarily a judicial foreclosure state, with one crucial exception—co-ops, as discussed in more detail below. Mortgage lenders must pursue court intervention through a judicial foreclosure process in order to collect against their collateral for defaulted residential mortgages on houses and condominiums, as well as unpaid property taxes, water/sewer charges, condo common charges, and Homeowners Association (HOA) fees.

a. The Mortgage Lending Process

When executing a residential mortgage loan, the homeowner-borrower(s) (referred to as the Borrower here) and lender sign two primary, separate agreements: the promissory note and the mortgage. The note is the Borrower's promise to repay. The note creates personal and financial liability on the Borrower to repay that money. The Borrower also pledges the property as collateral to secure the loan by signing the mortgage. The Borrower may or may not reside in the property, but if they signed the note, they have assumed personal liability for the mortgage debt in almost all cases of residential mortgage lending. In the event of default, the mortgage allows the lender to recover the loan by bringing a foreclosure action which may result in the sale of the home.

In the case of co-owned property, not all co-owners must sign the note, although loan approval largely depends on the financial circumstances of the borrowers. It is common for a co-owner with good credit to be the sole borrower, especially if their co-owner has poor credit. However, the lender will generally require all owners to sign the mortgage, to ensure that the security interest covers the entire property and the lender can recover its loan by foreclosing on the full home. In instances where a single Borrower passes away, there is no natural person remaining to be personally liable for the debt, and liability then passes to the deceased Borrower's estate. Any surviving heirs of the Borrower continue to have a right to live in the home until either the mortgage debt is resolved, generally by the heirs assuming the loan or paying off the loan entirely, or through the completion of a foreclosure action.

The borrower interacts with multiple parties during the lifetime of a mortgage loan. The lender is the originator of the mortgage loan and is the party whose name is on the note and mortgage. It is very common for mortgage lenders to sell their interest in the mortgage loan, and the owner of the loan and holder of the note may change several times throughout the life of the loan.

The Borrower must be provided with notice if the mortgage loan is sold. The loan servicer is a third-party company with whom the current mortgage loan owner contracts with to handle the day-to-day management of the loan, including collecting payments, sending mortgage statements, and negotiating loss mitigation in the event of default. It is also very common for the loan servicer to change over the lifetime of a loan, which will affect who the Borrower sends their payments to and who they receive correspondence from concerning the mortgage loan. In the event that the servicing rights are sold to a new company, the previous servicer and the new servicer must provide notice to the Borrower.[27]

b. Types of Mortgages

Knowing what kind of mortgage loan a client has is important to determine what legal defenses to the foreclosure, as well as what loss mitigation options, may be available.

- **Traditional Mortgages:** These types of primary mortgages include (1) Government Sponsored Enterprise ("GSE") loans, (2) FHA loans, (3) non-GSE loans, and (3) hard money lenders.
  - **GSE Loans:** GSE loans are originated by private lenders and then sold to, and insured by the GSE, typically Fannie Mae or Freddie Mac. These loans must meet the GSE's specific standards for factors such as the down payment amount, credit score, and debt-to-income ratio. The loans are then bundled together and sold to investors as mortgage-backed securities. GSE loans also have specific requirements for loan servicing and loss mitigation programs.
  - **FHA Loans:** FHA loans are guaranteed by the Federal Housing Administration. Typically, they are an avenue for first time homeowners to obtain a mortgage and build equity. In FHA loans, the borrower pays insurance to FHA, and if the borrower defaults, the FHA will pay the lender. FHA loans also have specific requirements for loan servicing and loss mitigation programs.
  - **Non-GSE Loans:** Non-GSE loans are originated by private lenders and pooled asset trusts. Non-GSE loans are not regulated to the extent of GSE or FHA loans. It is common to see loans held in trusts, but some lenders may originate, service, and hold the loan themselves. This means there may be fewer, or less effective, loss mitigation options available for borrowers with non-GSE loans, but New York's CPLR R. 3408 still encourages non-GSE loan owners and/or servicers to avoid unnecessary foreclosures through loss mitigation and negotiating in good faith with the Borrower in foreclosure settlement conferences.

- **Home Equity Conversion Mortgage (Reverse Mortgages):** Designed for senior homeowners to access the equity tied up in their home and preserve their livelihood during retirement. Reverse mortgages do not have monthly payments. Instead, part of the equity in the home is converted to a line of credit, monthly payments, or a lumpsum payment, and interest and fees accrue against the equity in the home. Unlike most traditional "forward" mortgages, the property taxes and homeowner's insurance are not covered by a regular monthly payment but are applied against the line of credit until the credit limit is reached. The borrower then must remain current on the property taxes and home insurance or else they will have defaulted on the terms of the loan and the lender may initiate foreclosure proceedings. To qualify for a reverse mortgage, the borrower must be at least 62 years old. Although U.S. Department of Housing and Urban Development ("HUD") insured reverse mortgages are not available for coops, private reverse mortgages may be available.
- **Home Equity Line of Credit (Second Mortgages):** Another mortgage loan product available to homeowners is a home equity line of credit ("HELOC"), which may be borrowed in conjunction with a primary mortgage, or independently. HELOC's can be used for a variety of reasons, such as financing home repairs, moving expenses, providing an emergency fund, or for general consumer purchases. The borrower will have a withdrawal period during which they have the option to withdraw all or part of the line of credit. Monthly payments will be calculated on how much the borrower withdraws from the line of credit. Borrowers should be counseled that HELOCs can often have higher interest rates than primary mortgages.

HELOCs included as part of an 80/20 loan—a loan where 80% is a primary mortgage which finances the purchase of a home and 20% is a line of credit— have been a primary contributor to the phenomenon of "zombie mortgages", a term referencing the tendency of these loans to seemingly rise from the dead. These types of loans were common before the 2008 financial crisis, and while it may be rare for them to be originated today, zombie mortgage owners continue to claim these loans as the basis for foreclosure action to this day. Borrowers can find themselves in foreclosure on second mortgages that they either forgot about or assumed were forgiven. When home values plummeted during the financial crisis, second mortgages became unsecure and big banks stopped collecting on them or sending out monthly statements. Predatory investors bought these second mortgages and waited until home values increased to initiate foreclosure proceedings, surprising homeowners who have likely not seen a monthly statement for the HELOC in years.

Heirs should also be on alert for whether a HELOC exists on the property as there are exceptions to the lender sending periodic statements after default and check the land records (ACRIS in New York City) to determine if a HELOC mortgage has been recorded.

- **Charitable or Benefit-Based Loans:** Not-for-profit lenders and government agencies make a variety of mortgage loans that exist as liens against properties. These loans include disaster relief aid, home repair and first-time homebuyer assistance, and they often have very favorable terms such as no-interest or are forgivable upon certain conditions. New York City previously placed a lien on properties owned by recipients of public assistance benefits, but such liens are no longer permitted following the repeal of NY Social Services Law § 106 in 2022.[28] Sustainable Neighborhoods (SN) is a wholly-owned subsidiary of the Center for New York City Neighborhoods (CNYCN) that makes charitable loans and administers home repair and first-time homebuyer programs on behalf of New York City and State agencies. SN also made loans to approximately 17,000 New York homeowners affected by the pandemic by placing UCC-1 fixture filings (also known as nuisance liens) as liens against the borrower's home. Those loans were fully forgivable after five years but that forgiveness was accelerated as of April 2025. SN has also modeled a charitable lending program for heirs property owners to consolidate heirship interests and pay mortgage, property tax and other housing expense arrears that may threaten homeownership.
- **Hard Money Loans:** Hard money loans are lent from private lenders or "investors" from outside the regular mortgage lending market. Borrowers should be extremely wary of hard money lenders as they often prey on homeowners in desperate situations. The loan terms are usually designed to make the borrower default, and commonly include high interest rates with even higher rates upon default, very short terms (12–24 months), interest-only payments, and balloon payments. Hard money loans may raise criminal usury concerns and are often designed to avoid the protections of residential mortgage foreclosure statutes, resulting in foreclosure actions commenced in the Supreme Court's much less borrower-friendly commercial mortgage part. Hard money lenders who fall under the Federal Regulation Z's "small servicer" definition (12 C.F.R. § 1026.41(e)(4)(ii))—one that services less than 5,000 loans—is not subject to Regulations X and Z and is free of the federal oversight of the CFPB.

c. Judicial Foreclosure Process

In the case of residential mortgage foreclosures commenced in New York Supreme Court, the foreclosure process is typically very slow and can last several years, starting from when the borrower first receives the 90-day pre-foreclosure notice to when the foreclosure auction is held. Foreclosure actions are occasionally commenced in US District Court when the plaintiff can establish diversity jurisdiction, but the venue for the overwhelming majority of these lawsuits remains state court.

STEP 1: Borrower misses mortgage payment(s) and the servicer sends a notice of default, a contractual obligation and condition precedent found in most residential mortgage agreements, informing the borrower that they have defaulted on their obligations under the loan.

STEP 2: The servicer sends the borrower a 90-Day Pre-Foreclosure Notice on behalf of the noteholder, a statutory condition precedent required by New York Real Property Actions and Proceedings (RPAPL) § 1304. The servicer must send this notice at least 90 days before initiating a foreclosure action. The 90-day notice must contain certain statutory language and requirements under. This notice must include, among other things, a list of approved housing counselors in the area.

STEP 3: At least 90 days after sending the RPAPL § 1304 pre-foreclosure notice and at least 120 days from the date of default, the (alleged) owner of the loan, or the loan servicer acting on the owner's behalf, can commence the foreclosure action. The foreclosing plaintiff must file a *lis pendens* and a summons and complaint with the court and serve the summons and complaint on the homeowner(s), borrower(s), and any other parties who may have an interest in the property. The lis pendens puts the public on notice that there is a legal dispute over the property. At the time the borrower is served with the summons and complaint, they must also be given the third condition precedent notice: The Help for Homeowners in Foreclosure Notice, as required by RPAPL § 1303. RPAPL § 1303 requires that this notice contain the statutory language in bold, fourteen-point font, and printed on a different colored paper than the summons and complaint (in other words, not on white paper).

STEP 4: In New York, foreclosure defendants have two opportunities to file an answer as a matter of right if the subject mortgage loan meets RPAPL § 1304 definition of a "home loan".[29] The first opportunity to answer is 20 days from personal service or 30 days from completion of any other type of service.[30] The second and last opportunity as a matter of right is 30 days from the first settlement conference (discussed further in step 5). If a defendant misses the second opportunity to answer, they may only answer with the consent of the plaintiff or with leave of the court. If the defendant fails to answer, the foreclosing plaintiff may move for a default judgment once the matter is released from settlement conferences (see Step 5, below). If the defendant has filed an answer, the plaintiff must move for summary judgment and address the defenses raised in the answer.

STEP 5: New York Civil Practice Law and Rules (CPLR) Rule 3408 mandates that in foreclosure actions where the subject mortgage loan is a "home loan" and the defendant is a resident of the subject property, the court shall hold a mandatory settlement conference within 60 days after proof of service. The purpose of these conferences is to determine if the parties can settle the matter through a mutually agreeable resolution to avoid an unnecessary foreclosure. While only one conference is mandated under CPLR R. 3408, typically there will be more than one so long as the parties are negotiating in good faith to reach a mutually agreeable resolution, although this can vary depending on the approach of the presiding judge or referee. Motion practice is stayed while the case remains in the settlement conference part, except for motions concerning compliance with CPLR R. 3408 itself.

STEP 6: If the defendant fails to attend the settlement conferences, or the parties are unable to reach a settlement, the case may be released from the settlement conference part, allowing the parties to proceed with litigation. If the defendant answered the Complaint, the plaintiff will generally move for an order granting summary judgment, striking the answers raised in the defendant's answer, and appointing a referee to compute the amount due and issue a report containing the computation of that amount (the Order of Reference), to be submitted to the presiding judge. If the defendant did not answer, the plaintiff will move for an order granting default judgment and an Order of Reference.

The parties may also proceed with discovery, although it is common for neither side to pursue discovery in standard foreclosure cases because the evidence a foreclosing plaintiff needs to satisfy its burden of proof almost always consists of business records and supporting affidavits, which should be included in support of the plaintiff's motion practice.

STEP 7: If the Court grants the plaintiff's Motion for Default Judgment or Motion for Summary Judgment, the plaintiff may then move for Judgment of Foreclosure and Sale and to confirm the Referee's Report of the amount owed. Although extremely rare in foreclosure cases, if the plaintiff has failed to prove it is entitled to summary judgment, the Court may order the matter to be scheduled for a trial. Often, foreclosing plaintiffs are allowed to re-file the motion and seek to remedy the deficiency that led to the original denial.

STEP 8: Once the judge confirms the Referee's Report and grants the Judgment of Foreclosure and Sale, a referee is appointed to direct the auction. The plaintiff must publish a public notice of the time, date and location of the sale, usually in a local newspaper,[31] and notify all defendants "who have appeared in the action and have not waived service" of the sale.[32] If the plaintiff is unable to proceed with the auction within 180 days of the date of the Judgment of Foreclosure and Sale, they may move for an extension with the Court and explain the reason for the delay.

STEP 9: Once the home has been auctioned, the new owner of the property may move to evict the current residents from the property, who are entitled to the statutory protections afforded to tenants in New York City. This process takes place in Civil Court as a landlord tenant proceeding.

STEP 10: If the foreclosure auction of a home is insufficient to cover the underlying mortgage debt, the foreclosing plaintiff may seek a deficiency judgment from the Court, which makes the borrower subject to the judgment responsible for paying the remaining balance. Conversely, if any money remains from the proceeds of the auction after all the lien holders and the foreclosure referee's fees are paid in full, the homeowner is entitled to file a claim for those surplus funds. The amount of the surplus funds is determined by a report filed by the foreclosure referee after the auction.

d. Tax Foreclosure Process

In New York, tax lien and water sewer lien foreclosures are judicial proceedings. After the lien has been sold by the City to the NYCTL Trust (the "Trust"), the Trust holds the right to foreclose on the property pursuant to the lien. Often, the Trust will sit on the lien for several years before initiating foreclosure proceedings, allowing interest on the lien to grow. These foreclosures follow the standard judicial foreclosure path, including the opportunity for settlement conferences. However, tax lien foreclosure defendants' only option to settle the foreclosure is to pay off ("redeem") the entire tax lien. This is a significant barrier to defendants and is often untenable when years of interest is added. This is why it is critical to be proactive and get clients removed from the lien sale before it occurs, so clients have more options available to them to settle their arrears. See *infra* Section VI(g) for further discussion on the tax lien sale and the options available for removal.

e. Non-Judicial Co-op Mortgage Foreclosure

Mortgage foreclosures on co-ops are non-judicial, meaning that the process for the lender to recover its collateral when the borrower defaults occurs outside of court. This is because the homeowner owns personal property, i.e., shares in a cooperative corporation and rights under a proprietary lease, as opposed to real property. Technically, the document that secures the collateral is not a mortgage, but a security agreement that is regulated by the Uniform Commercial Code instead of the Real Property Actions and Procedure Law. Although co-op borrowers may have some similar protections as those provided to borrowers in real property mortgage foreclosures, such as pre-foreclosure notices pursuant to Article 9 of the New York Uniform Commercial Code (NY UCC), the borrower loses much of the security of judicial process, such as settlement conferences. Additionally, co-op loan foreclosures are expedited and can occur in as little as 90 days following the requisite statutory notices.

There are two notices that co-op owners are entitled to before the lender may commence the non-judicial foreclosure:

NY UCC § 9-611(b) - Notice of Disposition: "A secured party that disposes of collateral under section 9-610 shall send to the persons specified in subsection (c) a reasonable authenticated notification of disposition." Under NY UCC § 9-613, this notice must contain the method of disposition, that the debtor is entitled to an accounting of the debt and include the time and place of the auction.

NY UCC § 9-611(f): Contains an additional notice requirement when the collateral is a residential coop. This notice is similar to the 90-day notice in judicial mortgage foreclosures. It requires that at least 90 days before the auction, the secured party must send notice of the auction in "bold, fourteen-point type and shall be printed on colored paper."

If the coop owner did not receive the required notices, they will need to commence their own lawsuit by filing an affirmative Order to Show Cause and Summons and Complaint in Supreme Court, seeking an injunction against the lender proceeding with the auction.

BEST PRACTICES:

1. If the borrower is deceased, confirm if there are any surviving heirs. Advise them that they may continue to live in the home until either the mortgage debt is resolved, generally by the heirs assuming the loan or paying off the loan entirely, or through foreclosure.
2. Confirm the type of loan to determine if any GSE or FHA-specific defenses or loss mitigation options are available.
3. Before taking out a reverse mortgage, advise client to consult with a housing counselor in the HOPP network, and review implications that reverse mortgage might have on any plan to distribute home to heirs upon homeowner's passing.
4. Answering foreclosure complaint: confirm when defendant was served. If first opportunity to answer has passed, has the first settlement conference been held?
5. If answer deadline has expired, seek plaintiff's consent to file late in exchange for waiver of personal jurisdiction/improper service defense before commencing motion practice.
6. Confirm that client received the requisite notices. Lender is required to notify the borrower(s) any time the loan is sold, pursuant to 12 CFR 1026.39.
7. Review hard money loan cases (whether affirmative litigation or counterclaims in foreclosure) for claims of usury, TILA violations, fraud, and illegality/unconscionability
8. Review client's property tax and water/sewer accounts with the NYC Departments of Finance (DOF) and Environmental Preservation (DEP), respectively, to determine if there are any arrears that should be addressed, or tax exemptions that the homeowner may be entitled to.

f. Preventing Foreclosure

In most cases, the focus for a Borrower in default or at risk of defaulting, should be on resolving the underlying debt, whether through loss mitigation, refinancing, or selling the home.

The sooner they do so, the lower the arrears will be, and the more likely they are to stabilize their housing. However, advocates counseling a Borrower in this situation should also balance the urgency and desire to quickly settle or otherwise resolve the debt with the strength of any legal defenses and/or claims the Borrower may have, and consider the comparative risks and rewards of pursuing those defenses/claims rather than settlement negotiations.

Loss mitigation refers to the various options borrowers might have to work with the loan owner/servicer to resolve the underlying mortgage default and settle the foreclosure lawsuit, before final judgment of foreclosure and sale. Borrowers can engage in loss mitigation at the time of default before the foreclosure action has been initiated, all the way through the foreclosure process until the house is sold at auction. Available loss mitigation options include the following:

Loan Modification: an agreement with the lender to change the terms of the current mortgage loan, by one or more of the following: adding arrears to the principal balance; extending the repayment term; adjusting the interest rate; and/or deferring a portion of the balance as a balloon payment due in full at the loan's maturity. Borrowers will typically be offered a 3-month trial loan modification agreement before being offered a permanent loan modification agreement.

Repayment Plan: Borrower pays back the arrears, typically over a 12-month period, while also simultaneously bringing the loan current and resuming the regular monthly payments. Because the borrower is effectively paying two monthly payments for the 12- month repayment period, repayment plans are often unaffordable for low and moderate - income households.

Reinstatement: Borrower may reinstate their mortgage loan at any time up until auction if they come up with the funds for the reinstatement amount. Some programs may be available to fund reinstatement for borrowers including the HRA One Shot Deal. For more information, see the grants/funding sources section.

Forbearance: a temporary suspension of the monthly mortgage payments.

Refinance: Borrower obtains new financing to pay off the existing mortgage loan. Refinancing with legitimate lenders is virtually impossible if the same borrower has an active foreclosure on their credit report, but in situations where the applicant is not the original borrower, such as a surviving heir seeking to pay off the debt and keep the home of their deceased homeowner relative, refinancing may be an option.

Short Sale: If the home's value is less than the balance of the loan, the loan owner/servicer may agree to accept less than the full balance, or a "short" payoff, if the property is publicly listed for sale and sold in an arms-length transaction. A short sale will satisfy the mortgage for less than the actual amount owed and resolve any pending foreclosure lawsuit. Beware of short sale scams which may include illegal kickbacks to the borrower from the purchaser assisting with the application or an investor inducing heirs to give up valuable occupancy and other rights by implying that the heir may be personally liable for the debt on an underwater property.

Deed in Lieu of Foreclosure: An agreement to voluntarily transfer ownership of the home to the foreclosing party, in which the borrowers/occupants of the home agree to leave the property by a specific date in exchange for a small monetary incentive (usually around $5,000 - $15,000) to help cover moving expenses.

Sale: A voluntary sale of the home in exchange for its maximum value. Proceeds are used to satisfy the mortgage with the goal that enough funds will be left for the borrower to transition into a new stable housing situation. A homeowner has the right to sell their home at any time up until it is sold at foreclosure auction.

Assumption of the Mortgage/Successor-in-Interest: Heirs of a deceased homeowner may assume the mortgage or be confirmed as a successor-in-interest on the mortgage loan, two separate statuses with distinct rights and obligations. A successor-in-interest must demonstrate to the loan servicer their ownership interest in the subject property and then can pay the monthly mortgage payments without assuming liability for the loan itself. An heir who assumes the loan is personally liable for the mortgage debt and is also entitled to all of the rights and obligations of the original borrower. Assumption also generally requires a review of the applicant's credit.

Servicers will often allow heirs to simultaneously apply for a joint loan modification and assumption of the loan. Additionally, family members are protected under the Garn St. Germaine Act of 1982, which includes a key protection for heirs when a homeowner dies. Specifically, the Act prohibits lenders from enforcing a due-on-sale clause—a provision that would normally allow a lender to call the entire mortgage loan due upon transfer of the property—when a property is transferred to a relative resulting from the death of the borrower. This means that when heirs inherit a home and transfer title into their names, the mortgage lender cannot declare the loan immediately due and payable solely because of the transfer.[33] In addition, federal mortgage servicing rules recognize certain heirs as "successors in interest" and grant them rights to receive information about the loan and, in some cases, to assume the mortgage. Once a mortgage servicer confirms a person as a successor in interest, that individual has the same rights under the Real Estate Settlement Procedures Act (RESPA) and the Truth in Lending Act (TILA) as the original borrower,[34] including the right to request information, receive account statements, and apply for loss mitigation if needed.[34] These protections help ensure that successors are not locked out of critical information or options simply because they were not the original borrower.

Household Budgeting and Financial Counseling: HUD-certified housing counseling agencies, a crucial part of the HOPP network, and financial planning can help homeowners plan for housing-related expenses, both expected and unexpected, and prevent them from falling behind in their mortgage payments when unexpected expenses arise or household income changes. However, the life circumstances of homeowners may change over time, including changes in employment, divorce, the death of family members, all of which can alter the anticipated income of homeowners, so budgeting and financial counseling should be updated when life changes occur. If a homeowner dies, heirs should contact DOF and DEP with proof of their interest in the home to be added to the account so that they can prevent the accrual of arrears by continuing to make payments, and to enter repayment plans if necessary to address arrears that might have already accrued.

Property Tax & Water/Sewer Arrear Payment Plans: NYC's Department of Environmental Preservation and Department of Finance offer a wide array of payment plans available to homeowners with property tax arrears and water sewer arrears.

If a homeowner is behind on their property taxes or water sewer bill, they may be placed on the tax lien sale. In New York City, at the tax lien sale, the City sells the lien to an "authorized buyer" (the NYCTL trust).[35] Thereafter, the trust owns the lien and has the right to foreclosure on the property. Homeowners have several options for getting off the tax lien sale, including entering into payment plans, applying for property tax exemptions (if applicable), or applying for the lien sale easy exit program. However, once the lien is sold, homeowners can still redeem the lien and avoid foreclosure up until when the home is auctioned.

Being proactive and getting on a payment plan will help homeowners avoid the tax lien sale. Homeowners are exempt from the tax lien sale if they are receiving either the Senior Citizen Homeowners' Exemption (SCHE) or the Disabled Homeowners' Exemption (DHE). DHE must also be renewed annually and SCHE must be renewed biennially.

Grants/Funding Sources: There are several private grants which may provide limited, one-time assistance to homeowners. They include the Havens Fund, Tuttle Fund, and Catholic Charities. Havens Fund coordinates between community leaders to make onetime grants to New Yorkers facing a financial difficulty. The Tuttle Fund is directed towards elderly Manhattan residents with limited means. Catholic Charities provides limited financial assistance to pay for groceries, pay rent, or utilities. Government grants for mortgage assistance include the HRA One Shot Deal, which is a one-time emergency assistance grant which can be used to pay off mortgage arrears and avoid foreclosure, pay utility bills, coop and condo maintenance, or other arrears threatening housing stability. HRA may require the repayment of the One Shot Deal depending on the client's source of income. The HIV and AIDS Servicing Agency (HASA) provides financial assistance to individuals living with HIV and AIDS. Assistance may be used towards mortgage payments or coop/condo maintenance or common charges. HASA is a source of recurring monthly income to cover specific housing-related expenses for those that qualify. CNYCN has several programs that offer no-interest, no payment loans for seniors and people living with disabilities (ERMA) and for heirs property owners (HPPF). Those programs open and close depending on available funding at that time.

Home Repair Programs: NYC Department of Housing Preservation and Development in partnership with CNYCN offers HomeFix, a program which offers low to no interest loans, which may be forgivable, for home repairs to eligible homeowners. HomeFix will loan up to $60,000 per home with an additional $30,000 per rental unit. CNYCN is also launching a home repair program for homeowners who do not qualify for HomeFix with an amortizing, installment loan of up to $75,000 per home. The Metropolitan Council on Jewish Poverty and the New York Foundation for Senior Citizens provide free minor home repairs to low to moderate income senior citizens. Covered repairs may include minor plumbing, electrical work, caulking and weather-stripping of windows and doors, and the installation or repair of door locks and chains. Some local housing counseling agencies also offer home repair funding programs.

Bankruptcy: Filing for bankruptcy automatically stays a foreclosure action but only temporarily. A home may be exempted from liquidation if it qualifies for the homestead exemption. Chapter 7 bankruptcy will not discharge mortgage debt, but it can discharge other types of debt, such as credit cards, medical bills, and others. Chapter 13 bankruptcy allows for a repayment plan to be created for past due mortgage payments. In order to save the home from liquidation, the homeowner has to be able to afford the current monthly mortgage payment in addition to the payments pursuant to the Chapter 13 plan. Whether bankruptcy is the right solution for clients to save their home will depend on if income is exceeded by the expense of keeping the home. Clients should be able to keep up with monthly expenses of keeping the home if their other debts are restructured in bankruptcy.

BEST PRACTICES:

1. Advocate as needed on homeowner's behalf when applying for benefits or loss mitigation – for example, establishing that absent co-owner/borrower doesn't live at or contribute to the household, and therefore should not be required to participate in application process.
2. If homeowner was offered a temporary loan modification, ensure that they continue to make payments pursuant to the trial modification agreement, even if the stated term of the trial plan has been satisfied, until the permanent loan modification agreement is executed.
3. If home is on the tax lien sale list: does the homeowner qualify for SCHE or DRIE? Can they get on a workable payment plan or apply for easy exit to get off the tax lien for one year?
4. Refer elderly clients to a HOPP-network housing counseling agency to review for the viability of a reverse mortgage loan, while considering the potential interests of heirs and caretakers who may rely on the home after the borrower dies.

Be wary of foreclosure rescue scams, which target homeowners and heirs with defaulted loans with too good to be true offers of guaranteed loan modifications, fraudulent property valuations or short sales with cash back to the homeowner. Reputable services will not cold-call or solicit homeowners.

VII. Defending a Foreclosure Action

Foreclosure court dockets regularly contain a number of cases involving tangled title and heirs property due to the vulnerability of properties lacking proper estate planning.

Confusion on who pays the mortgage, property taxes, and water sewer payments leaves property vulnerable to foreclosure while the estate is administered, or the heir(s) execute an heirship deed. If an heir manages to get on title, mortgage companies routinely require the new owner to assume the mortgage loan before they will accept payments, furthering the arrears. In the case of reverse mortgages, foreclosures are triggered at the time the borrower dies, leaving heirs with the burden of paying off the reverse mortgage or selling the home. These situations highlight how easily heirs can find themselves defending a foreclosure case and the need for practitioners to properly counsel heirs on the risk of foreclosure.

As discussed above, once a foreclosure action is commenced, the defendant has two opportunities to file an answer to the complaint as of right: (1) as with any action commenced in New York civil court, 20 days after being personally served, pursuant to CPLR 308(1), or if not personally served, 30 days after service is complete, pursuant to CPLR 308(2); or (2) 30 days after the first settlement conference, pursuant to CPLR 3408. There are many defenses available in foreclosure actions, including conditions precedent which plaintiff(s) must satisfy before they can initiate a foreclosure action. Some of these defenses must be raised in the answer or else they will be waived. Foreclosure cases rarely go to trial. Highlighted below are just some of the available defenses to a foreclosure action. However, the successful assertion of one or more of the below defenses may defeat a motion for summary judgment and, in more limited circumstances, enable the defendant to successfully move for dismissal.

a. Notice Requirements

RPAPL § 1304 - 90-Day Notice: At least 90 days before initiating a foreclosure action, the lender must send to the borrower, in a separate mailing, a 90-day notice informing the Defendant they are at risk of foreclosure. The notice must contain the required statutory language and a list of at least five housing counselors in the borrower's county. The 90-day notice must be sent by both certified and first-class mail.

RPAPL § 1306 – Filing with Superintendent Department of Financial Services: Within three days of sending the 90-day notice, the lender must register with the Department of Financial Services and include on the form the name, address, and telephone number of the borrower, as well as the amount owed on the mortgage, and "such other information as will enable the superintendent to ascertain the type of loan at issue."

RPAPL § 1303 - "Help for Homeowners" Notice: This notice must accompany the summons and complaint and be on different colored paper and contain the statutory language.

Notice of Default: No less than 30 days from the date of default, the lender must mail to borrower a notice of default as required by the terms of the mortgage.

- Note that each of the four preceding notice requirements are considered conditions precedent to the filing of a residential mortgage foreclosure action.

Real Estate Settlement Procedures Act (RESPA) 12 C.F.R. § 1024.39(a)-(b), § 1204.41(f) - Early Intervention Requirements: RESPA requires that, prior to initiating a foreclosure, lenders must attempt to establish live contact with borrower within 36 days of default, and within 45 days, send a written notice including servicer's information and loss mitigation options. RESPA further forbids lenders from commencing a foreclosure less than 120 days from delinquency or while there is a pending loan modification application ("Dual Tracking").

b. Statute of Limitations

The statute of limitations for mortgage foreclosure actions is 6 years.[36] Statute of limitations defense **MUST** be raised in the answer, or it will be waived.[37] The statute of limitations begins to run at several different points in the mortgage life cycle and may render part or all of the debt time barred. The statute of limitation runs from:

(1) the due date of each unpaid monthly installment (there are separate causes of action for each installment)
(2) When the mortgagee is entitled to demand full payment (e.g. after the loan's maturity date)
(3) the date that the mortgage was accelerated: either,
a. the commencement of a foreclosure action; or,
b. explicit notice of acceleration. Must be clear and unequivocal. Notice of a future intent to accelerate is insufficient.[38]

In contemporary practice, notices of acceleration are uncommon, and the statute of limitations generally starts to run when the foreclosing plaintiff accelerates the full amount of the mortgage debt by filing the foreclosure action itself, excluding any unpaid installments due before the 6-year period prior to the date of filing.

The statute of limitations for reverse mortgages begins to run when a triggering event occurs, such as the death of the borrower.

Acceleration by a Predecessor-in-Interest: acceleration by a plaintiff's predecessor-in-interest is valid only if there was an express judicial determination dismissing the prior foreclosure action on the basis that the loan had not been validly accelerated in that prior action. This applies to quiet title actions as well.[39] This means that a successful standing defense in a previous foreclosure may defeat a statute of limitations defense in a subsequent foreclosure action.

Revocation of Acceleration: Once a foreclosure action has commenced, the foreclosing plaintiff cannot unilaterally revoke the acceleration of the mortgage debt to reset the statute of limitations.[40]

Acceleration may only be revoked by the Borrower's acknowledgement of the debt and express intent to repay without conditions. A trial loan modification by itself will not revoke acceleration, but payments made beyond the trial modification term, as well as a permanent loan modification agreement, will re-start the statute of limitations. Note that dismissal by the court also does not de-accelerate the mortgage debt.[41]

CPLR § 205-a - The Safe Harbor Rule:[42] Enacted as part of the Foreclosure Abuse Prevention Act of 2024, this statute requires a foreclosing plaintiff to commence a second foreclosure action that would otherwise be barred by the statute of limitations within 6 months of the dismissal of a prior action seeking to foreclose on the same mortgage. This new action must be filed *and* service must be complete within 6 months from when the first action was dismissed. The Safe Harbor Rule is not available if:

(1) The prior action was discontinued voluntarily
(2) The prior action was dismissed for lack of personal jurisdiction over defendant (improper service of process)
(3) The prior action was dismissed for neglect to prosecute the action
(4) The Plaintiff violated any court rules or individual part rules
(5) Plaintiff failed to comply with court scheduling orders
(6) Plaintiff failed to timely submit an order or judgment
(7) Plaintiff defaulted due to nonappearance for conference or at a calendar call
(8) Plaintiff failed to timely submit any order or judgment
(9) The first action was dismissed on the merits

Note that dismissal on the merits does not include dismissal for lack of standing or failure to comply with RPAPL §§ 1304 and 1303 predicate notices.

c. Standing

When standing is in dispute, a Plaintiff must establish standing in order to be entitled to foreclose. A Plaintiff may establish standing in several ways: (1) as the original lender, (2) as holder of the note and mortgage, (3) or as assignee. Original lenders should run into no issue when establishing their standing to foreclose. In such cases, defendants will likely not even contest standing.

A holder is an alleged successor-in-interest of the original lender one who is in possession of the note. Under NY UCC § 3-204, the note must contain either a special indorsement, which names a specific person or company to whom that note is payable, or a blank indorsement, which specifies no one. In such situations, is "payable to the bearer and may be negotiated by delivery alone until specially indorsed." [43] For a foreclosing plaintiff to prove standing as a subsequent holder of the note, they must demonstrate by admissible evidence that they were in possession of the note prior to the commencement of the action.[44] Generally speaking, while "[t]here is no "checklist" of required proof to establish standing…" a foreclosing plaintiff is able to meet its burden of proving standing "through evidence that it possessed the note when it commenced this action, including a copy of the original note endorsed in blank, and other supporting material, including an affidavit of possession based on an employee's review of plaintiff's business records." [45]

If the indorsement is on an allonge as opposed to directly on the instrument, the allonge must be "so firmly affixed thereto as to become part thereof." [46] This usually means the allonge must at least be stapled to the note. It must be more permanent "than a paperclip."[47]

Standing as an assignee only gives the assignee the rights actually assigned. Critically, an assignee Plaintiff must show an unbroken chain of assignments to have standing to foreclose.[48]

In cases where the note has been lost, a lost note affidavit providing the noteholder's due diligence in trying to locate the note, such as "when the search for the note occurred, who conducted the search, the steps taken in the search for the note, or when or how the note was lost",[49] must accompany the summons and complaint. In addition, NY UCC § 3-804 requires the Plaintiff to maintain security at least twice as much as the unpaid principal balance in order to indemnify the Defendant and their heirs. Discovery can be useful in situations involving disputes over a foreclosing plaintiff's standing.

d. Excessive Interest

Pursuant to CPLR § 5001(a), the courts have discretion to calculate interest, the rate, and date from which it is calculated as a matter of equity. This defense may be available when the plaintiff has unreasonably delayed in bringing the action and may reduce the amount due.

e. Actions Commenced Against Deceased Parties

A plaintiff cannot commence a foreclosure action against a deceased borrower. Instead, the deceased individual's estate must be named. If the borrower passes away after the foreclosure action has been commenced but before the final judgment of foreclosure and sale has been granted, the plaintiff must seek to substitute either the executor of the estate, if the borrower died testate (with a will), or all the heirs/distributees if the borrower died intestate (without a will).[50]

f. FHA Special Mortgage Defenses

24 C.F.R. 203.602 - Notice of Default: Federal regulation requires lenders in FHA mortgages to provide the notice of default no later than the end of the second month of delinquency.
24 C.F.R. 203.604 - Face-to-Face Interview: Lenders must make a "reasonable effort" to arrange a face-to-face meeting with the borrower before three months of borrower's delinquency.

g. Reverse Mortgage Specific Defenses

RPAPL § 1304(1-a) - Special 90-Day Notice: This reverse mortgage specific 90 day notice should include why the lender is claiming they have the right to foreclose (i.e. the borrower died or failed to pay property taxes).
Failure to Secure Approval from HUD to Foreclose: Lender must first get approval from HUD in order to call the mortgage loan due and initiate a foreclosure proceeding. Failure to do so may allow the defendant to move to dismiss the foreclosure action.

If Moving to Foreclose for Failure to Pay Property Taxes:
(1) Lender should have given the borrower the opportunity to first repay; or
(2) If the borrower had sufficient credit in their reverse mortgage line of credit, this first should have been used to pay the property taxes before foreclosure is initiated.

h. Counterclaims

i. Attorneys Fees: Pursuant to RPAPL § 282, if there is a covenant in the mortgage for the plaintiff/lender to recover attorneys fees, there is also an implied covenant that borrower/defendant may recover reasonable attorneys' fees as a result of plaintiff/lender's failure to perform under the mortgage agreement.
ii. Quiet Title: When the Statute of Limitations has expired on the entire mortgage debt, a borrower may make a counterclaim or bring an affirmative action to quiet title. Under RPAPL § 1501(4), when the statute of limitations has expired, the borrower may move to cancel and discharge the mortgage debt and adjudge the property "to be free therefrom." Pursuant to this statutory provision, it is "immaterial whether the debt upon which the mortgage or lien was based has, or has not, been paid." However, the borrower has the burden of showing that the statute of limitations has expired.

BEST PRACTICES:
1. Confirm if an answer has been filed, and if so, if all the appropriate defenses and counterclaims were asserted. If an answer was not filed, determine if the client still has the option to file as of right, or if seeking opposing counsel's consent, or motion practice, will be necessary.
2. If the trial period extends beyond the period expressly provided in the trial modification offer, keep records and affirm in the client affidavit that those extra payments were pursuant to the trial modification.
3. Confirm that client is entitled to settlement conferences – does homeowner live in property as primary residence? Are they planning on keeping the home?
4. When evaluating statute of limitations defenses, consider any potential impact of the New York executive order issued during the COVID-19 lockdown that temporarily extended statutes of limitations.[51]

VIII. Affirmative Litigation to Untangle Title

In addition to foreclosure, failures in estate planning can lead to a myriad of other legal issues and types of litigation. Properties which have tangled title because of estate planning failures are more vulnerable to predatory investors who may use some of these legal avenues to strip equity and force longtime residents out of their home.

a. Quiet Title

Affirmative quiet title actions may be brought to cancel and discharge a mortgage on a property; however, they may also be used in matters involving tangled or clouded title to revoke voidable deeds or adjudge the proper owner(s) as the fee simple holder.

b. Partition

A partial owner has a right to initiate partition to recover their share of the property. There are two types: (1) partition in kind, and (2) partition by sale. Partition in kind is favored by courts; however, the physical partitioning of a property is often not possible, particularly in major cities like New York where land is scarce. In situations where partition in kind is not possible, courts may instead approve a partition by sale. The court will then oversee the auctioning of the home and the division of sale proceeds to the owners equal to the percentage of their ownership interest in the property. For a more detailed review of partition lawsuits under the NY Uniform Partition of Heirs Property Act, RPAPL § 993, see section V(e).

c. Unjust Enrichment

Unjust enrichment occurs when one owner benefits disproportionately at the expense of another. This may occur when one owner is paying all the mortgage, property taxes, utilities, and upkeep of the property while the other lives in the property expense free. Courts may also find unjust enrichment when one party is benefiting from a property at the expense of the rightful owner.

d. Constructive Trust

A constructive trust is created by courts as an equitable remedy to recognize another party's interest in the property. Courts may impose constructive trusts in cases of unjust enrichment or deed fraud, in order to preserve the interest of the defrauded. Under a constructive trust, the court may order the transfer of property or prohibit the current title holder from unjustly enriching themselves.

e. Adverse Possession

Adverse possession may be a last option for an occupant facing an ownership claim from a non-occupant, to recover their legal interest in the property. In New York, the period of continuous possession is 10 years—the statute of limitations for quiet title actions. In order to successfully adversely possess, one must:
(1) Adverse: be living in the property without permission of the owner;
(2) Actual: be physically residing in the property;

(3) Exclusive: such living must be exclusive of the owner; and
(4) Open and notorious: using the property in the way a true owner would
In order to adversely possess a co-owner, you must first establish "ouster" against the co-owner. This means you must exclude them from the property for the entire 10 continuous years. You may successfully exclude a co-owner by changing the locks or putting up some other physical barrier to entry. Once the 10-year period of possession has been met, the adverse possessor may bring a quiet title action to obtain free and clear title to the property.

BEST PRACTICES:
1. Use ACRIS to review property records to determine if there are title claims adverse to client and advise clients to register for the ACRIS Notice of Recorded Document program - https://a836-acrissds.nyc.gov/NRD/.
2. If deed(s) transferring title from deceased homeowners to heirs/beneficiaries has not been recorded, execute and record deeds to avoid tangled title.
3. Determine if home is client's primary residence, and if so, how long they have lived there to evaluate equitable claim to home and potential adverse possession claim.
4. If client is a victim of deed theft, investigate whether title company or the attorneys were provided by opposing party. If so, this could indicate a conflict of interest.

IX. Conclusion

Homeowners and their heirs should have a solid estate plan in place to help preserve the family home for the next generation. Without proper planning, heirs are vulnerable to a range of threats—including scams and deed theft, predatory investors, foreclosure, and mounting arrears in property taxes or mortgage payments. Individuals should seek legal assistance for estate planning during the homeowner's lifetime or, where that is not possible, to determine their legal options after a relative has passed away without a will or trust. The sooner individuals connect with a trusted attorney, the more tools available to help preserve the home and protect ownership interests. Attorneys can also help pursue loss mitigation or financial planning strategies before mortgage arrears become unmanageable or before foreclosure actions proceed beyond the protective phase of the settlement conference part.

If a homeowner or heir is not already working with a trusted HOPP partner to plan for the inevitable or preserve a home following the death of their loved one, they should reach out seek legal assistance by reaching out to the City Bar Justice Center's Homeowner Stability Project at (212) 382-6766 or hsp@nycbar.org, or the HOPP network by contacting the Center for New York City Neighborhoods' Homeowner Hub at (646) 786-0888, or visiting www.cnycn.org.



NOTES

[1] Rakesh Kocchar & Mohamed Moslimani, The Assets Households Own and the Debts They Carry, in WEALTH SURGED IN THE PANDEMIC, BUT DEBT ENDURES FOR POORER BLACK AND HISPANIC FAMILIES (Pew Rsch. Ctr. 2023), https://www.pewresearch.org/2023/12/04/the-assets-households-own-and-the debtstheycarry/#:~:text=An%20owned%20home%20is%20typically,than%20White%20and%20Asian%20households.

[2] *Cary v. Fisher*, 541 N.Y.S.2nd 138 (App. Div. 1989).

[3] NY ESTATES POWERS & TRUSTS LAW § 6-2.2.

[4] *Jemzura v. Jemzura*, 330 N.E.2d 414 (N.Y. 1975).

[5] *Dolan v. Dolan*, 211 N.Y.S. 507 (App. Term 1925).

[6] N.Y. REAL PROP. ACTS. LAW §§ 901 through 993.

[7] *Roberts v. Roberts*, 134 N.Y.S.2d 877 (Sup. Ct. 1954).

[8] HEIRS PROPERTY PROTECTION AND DEED THEFT PREVENTION ACT OF 2024.

[9] N.Y. EST. POWERS & TRUSTS LAW (2024).

[10] *Id.* § 4-1.1.

[11] *Medicaid*, MEDICARE.GOV, https://www.medicare.gov/basics/costs/help/medicaid.

[12] N.Y. PUB. HEALTH LAW § 2981 (2024).

[13] N.Y. GEN. OBLIG. LAW § 5-1501B (2024).

[14] *Spotlight*: *New York City's Homeowner Housing Market*, N.Y.C. COMPTROLLER, https://comptroller.nyc.gov/reports/spotlight-new-york-citys-homeowner-housingmarket/#:~:text=While%20New%20York%20City%20is,homeowners%20span%20the%20income%20spe ctrum.

[15] Amalie Zinn, *What is Heirs' Property, and Why Does it Matter for Equitable Homeownership?, HOUSING MATTERS*, Dec. 13, 2023, https://housingmatters.urban.org/articles/what-heirs-property-and-why-does-itmatter-equitable-homeownership.

[16] Benjamin Oreskes, *Hochul Seeks to Limit Private-Equity Ownership of Homes in New York, N.Y. TIMES* (Jan. 9, 2025), https://www.nytimes.com/2025/01/09/nyregion/private-equity-homes-hochul.html.

[17] *See* Press Release, N.Y. Att'y Gen., Attorney General James Takes Action to Protect New Yorkers' Homes and Combat Deed Theft (April 27, 2023), https://ag.ny.gov/press-release/2023/attorney-generaljames-takes-action-protect-new-yorkers-homes-and-combat-deed; *See also* Press Release, Brooklyn Borough President, Brooklyn Borough President Antonio Reynoso, NYC Council Brooklyn Delegation, Advocates, and Homeowners Rally to Demand Major Investment into Fight Against Deed Theft (Aug. 11, 2025), https://www.brooklynbp.nyc.gov/brooklyn-borough-president-antonio-reynoso-nyc-councilbrooklyn-delegation-advocates-and-homeowners-rally-to-demand-major-investment-into-fight-againstdeed-theft/#:~:text=1,500.

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[18] RICHARD ROTHSTEIN, THE COLOR OF LAW: A FORGOTTEN HISTORY OF HOW OUR GOVERNMENT SEGREGATED AMERICA, 64-67 (2017).

[19] *Id*. at 66.

[20] *See St-Jean et al. v. Emigrant Mortg. Co., Inc. et al.*, at 21-23 (2d Cir. 2023) (quoting *United Companies Lending Corp. v. Sargeant*, 20 F.Supp.2d 192, 203 n.5 (D. Mass. 1998)).

[21] *Id.* at 109-11. *See also*, *St-Jean et al. v. Emigrant Mortg. Co., Inc. et al.*, (2d Cir. 2023).

[22] N.Y. UNIFORM PARTITION OF HEIRS PROPERTY ACT OF 2024, N.Y. REAL PROP. ACTS. LAW § 993.

[23] *See supra* note 15.

[24] *See supra* note 8.

[25] *See What is an HDFC Co-Op,* UHAB, https://www.uhab.org/our-work/coop-support/whats-anhdfc/. Limited equity coop structures include both HDFCs and Mitchell-Lamas.

[26] HOME EQUITY THEFT PREVENTION ACT OF 2006, N.Y. REAL PROP. LAW § 265-A. HETPA does not apply to situations where: the buyer will use the home as their primary residence, there is a court-ordered auction, the buyer is a close relative, or a bona fide buyer upon resale.

[27] 12 CFR § 1024.33.

[28] *New York Ends Mortgage Requirement for Homeowners Who Receive Welfare Benefits*, NAT'L CTR. FOR L. & JUST. (May 2, 2022), https://nclej.org/news/socialserviceslaw106#:~:text=As%20a%20result%20of%20the,of%20eligibility%20for%20temporary%20assistance.

[29] NY RPAPL § 1304(6)

[30] *See* CPLR §§ 308, 320.

[31] *See* RPAPL § 231(2).

[32] *Wells Fargo Bank, N.A. v Ramphal*, 172 A.D.3d 1280,1280 (2d Dep't 2019).

[33] 12 U.S.C. § 1701j-3(d)(8).

[34] 12 C.F.R. §§ 1024.30(d), 1024.36(i), 1026.2(a)(11)).

[35] *See Avoid the Lien Sale*, N.Y.C. DEP'T OF FIN., https://www.nyc.gov/site/mayorspeu/resources/avoidlien-sale.page.

[36] CPLR § 213(4).

[37] CPLR § 3211(a)(5).

[38] *See 21st Morg. Corp v. Adames*, 15 A.D.3d 474, 474 (2d Dep't 2017).

[39] NY CPLR § 213(4).

[40] NY CPLR § 203(h).

[41] *Fed. Nat'l Mortg. Ass'n v. Mebane*, 208 A.D.3d 892, 894 (2d Dep't 1994).

[42] NY CPLR § 205-A.

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[43] NY UCC § 3-204.

[44] *Nationstar Mortage, LLC v Guarino*, 2025 NY Slip Op 02925 (2nd Dept 2025); *938 St. Nicholas Ave. Lender LLC v 936-938 Cliffcrest Hous. Dev. Fund Corp.* 218 AD3d 417 (1st Dep't 2023); *Mortgage Stanley Private Bank, N.A. v Ceccarelli*, 210 AD3d 478 (1st Dept 2022); *U.S. Bank N.A. v Moulton*, 179 AD3d 734 (2nd Dept 2020).

[45] *JPMorgan Chase Bank, N.A. v Caliguri*, 36 NY3d 953 (NY 2020).

[46] NY UCC § 3-202(2).

[47] *HSBC Bank USA, Nat'l Ass'n v. Roumiantseva*, 130 AD3d 983, 985 (2d Dep't 2015).

[48] *2 Cap Invs., LLC v Frog Invs., LLC*, 2025 NY Slip Op 03525 (1st Dept 2025).

[49] *Deutsche Bank Nat. Trust Co. v. Anderson*, 161 A.D.3d 1043 (2018).

[50] NY CPLR §§ 1015, 1021.

[51] N.Y. Exec. Order No. 202.8, 9 N.Y.C.R.R. 8.202.8 (2020).

APPENDIX

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NEW YORK STATE HEALTH CARE PROXY

(1) I, _____

hereby appoint, _____
(name, home address and telephone number of agent)

_____

_____

as my health care agent to make any and all health care decisions for me, except to the extent that I state otherwise. This proxy shall take effect only when and if I become unable to make my own health care decisions.

(2) Optional: Alternate Agent
If the person I appoint above is unable, unwilling or unavailable to act as my health care agent, I hereby appoint:

_____
(name, home address and telephone number of agent)

_____

(3) Optional Instructions: I direct my health care agent to make health care decisions according to my wishes and limitations as stated below, or as he or she knows my wishes to be. *(If you want to limit your agent's authority to make health care decisions for you or to give specific instructions, you may state your wishes or limitations here. Attach additional pages as necessary):*

_____

_____
(Unless your agent knows your wishes about artificial nutrition and hydration [feeding tubes], your agent will not be allowed to make decisions about artificial nutrition and hydration.)

(4) Unless I revoke this proxy, it shall remain in effect indefinitely, or until the date or circumstance that I have stated below occurs. This proxy shall expire *(specific date or circumstance, if desired):* _____

_____

(5) Your Identification: *(please print)*

Your Name: _____

Your Signature: _____ Date: _____

Your Address: _____

(6) Optional: Organ and/or Tissue Donation: Upon my death:

[ ] I **do not** wish to donate my organs or tissues

OR

I hereby make an anatomical gift, to be effective upon my death, of:
(Check any that apply)

[ ] Any needed organs and/or tissues

[ ] The following organs and/or tissues _____

_____

[ ] Limitations _____

If you do not state your wishes or instructions about organ and/or tissue donation on this form, it will not be taken to mean that you do not wish to make a donation or prevent a person, who is otherwise authorized by law, to consent to a donation on your behalf.

Your Signature: _____ Date: _____

(7) Statement by Witnesses: *(Witnesses must be 18 years of age or older and cannot be the health care agent or alternate)*

I declare that the person who signed this document appears to be of sound mind and acting of his or her own free will. He or she signed (or asked another to sign for him or her) this document in my presence.

Witness One:

Name *(Print)*: _____

Signature: _____

Address: _____

Date: _____

Witness Two:

Name *(Print)*: _____

Signature: _____

Address: _____

Date: _____

NEW YORK STATE LIVING WILL

This Living Will has been prepared to conform to the law in the State of New York, and is intended to be "clear and convincing" evidence of my wishes regarding the health care decisions I have indicated below.

I, *(Print name)* _____ , being of sound mind, make this statement as a directive to be followed if I become unable to participate in decisions regarding my medical care. These instructions reflect my firm and settled commitment regarding health care under the circumstances indicated below:

LIFE-SUSTAINING TREATMENTS

I direct that my health care providers and others involved in my care provide, withhold, or withdraw treatment in accordance with the choice I have marked below: ***(Initial box: (a) or (b))***

[_____] (a) **Choice NOT To Prolong Life**

I do not want my life to be prolonged if I should be in an incurable or irreversible mental or physical condition with no reasonable expectation of recovery, including but not limited to: (a) a terminal condition; (b) a permanently unconscious condition; or (c) a minimally conscious condition in which I am permanently unable to make decisions or express my wishes. While I understand that I am not legally required to be specific about future treatments if I am in the condition(s) described above I feel especially strongly about the following forms of treatment:

[_____] I do not want cardiac resuscitation.

[_____] I do not want mechanical respiration.

[_____] I do not want artificial nutrition and hydration.

[_____] I do not want antibiotics.

OR

[_____] (b) **Choice To Prolong Life**

I want my life to be prolonged as long as possible within the limits of generally accepted health care standards.

RELIEF FROM PAIN

Except as I state in the following space, I direct that treatment for alleviation of pain or discomfort should be provided at all times, even if it hastens my death: *(add additional instructions below only if you want to limit pain relief)*

_____

_____

OTHER WISHES:

(If you do not agree with any of the optional choices above and wish to write your own, or if you wish to add to the instructions you have given above, e.g. regarding dialysis, blood transfusions, hospice care, etc., you may do so here) I direct that:

_____

_____

_____

_____

These directions express my legal right to refuse treatment, under the law of New York. I intend my instructions to be carried out unless I have rescinded them in a new writing or by clearly indicating that I have changed my mind.

If I have appointed an agent in a Health Care Proxy, he or she has full authority to resolve any question regarding my health care decisions, as recorded in this document or otherwise, and what my choices may be.

Signed _____ Date _____

Print Name:_____

Address: _____

A5

WITNESS DECLARATION: *(Witnesses must be 18 years or older)*

I declare that the person who signed this document appeared to execute the Living Will willingly and free from duress. He or she signed (or asked another to sign for him or her) this document in my presence.

Witness 1:

Signed _____ Date _____

Print Name:_____

Address: _____

Witness 2:

Signed _____ Date _____

Print Name:_____

Address: _____

New York State Bar Association
New York Statutory Short Form Power of Attorney, Eff. 6/13/21

POWER OF ATTORNEY
NEW YORK STATUTORY SHORT FORM

(a) CAUTION TO THE PRINCIPAL: Your Power of Attorney is an important document. As the "principal," you give the person whom you choose (your "agent") authority to spend your money and sell or dispose of your property during your lifetime without telling you. You do not lose your authority to act even though you have given your agent similar authority.

When your agent exercises this authority, he or she must act according to any instructions you have provided or, where there are no specific instructions, in your best interest. "Important Information for the Agent" at the end of this document describes your agent's responsibilities.

Your agent can act on your behalf only after signing the Power of Attorney before a notary public.

You can request information from your agent at any time. If you are revoking a prior Power of Attorney, you should provide written notice of the revocation to your prior agent(s) and to any third parties who may have acted upon it, including the financial institutions where your accounts are located.

You can revoke or terminate your Power of Attorney at any time for any reason as long as you are of sound mind. If you are no longer of sound mind, a court can remove an agent for acting improperly.

Your agent cannot make health care decisions for you. You may execute a "Health Care Proxy" to do this.

The law governing Powers of Attorney is contained in the New York General Obligations Law, Article 5, Title 15. This law is available at a law library, or online through the New York State Senate or Assembly websites, www.nysenate.gov or www.nyassembly.gov.

If there is anything about this document that you do not understand, you should ask a lawyer of your own choosing to explain it to you.

(b) DESIGNATION OF AGENT(S):

I, _____ _____
(name of principal) *(address of principal)*

hereby appoint:

_____ _____
(name of agent) *(address of agent)*

_____ _____
(name of second agent) (*address of second agent*)

as my agent(s).

If you designate more than one agent above and you do not initial the statement below, they must act together.

(____) My agents may act SEPARATELY.

(c) DESIGNATION OF SUCCESSOR AGENT(S): (OPTIONAL)
If any agent designated above is unable or unwilling to serve, I appoint as my successor agent(s):

_____ _____
(*name of successor agent*) (*address of successor agent*)

_____ _____
(*name of second successor agent*), (*address of second successor agent*)

If you do not initial the statement below, successor agents designated above must act together.

(____) My successor agents may act SEPARATELY.

You may provide for specific succession rules in this section. Insert specific succession provisions here:

(d) This POWER OF ATTORNEY shall not be affected by my subsequent incapacity unless I have stated otherwise below, under "Modifications".

(e) This POWER OF ATTORNEY DOES NOT REVOKE any Powers of Attorney previously executed by me unless I have stated otherwise below, under "Modifications."

(f) GRANT OF AUTHORITY:
To grant your agent some or all of the authority below, either
(1) Initial the bracket at each authority you grant, or
(2) Write or type the letters for each authority you grant on the blank line at (P), and initial the bracket at (P). If you initial (P), you do not need to initial the other lines.

I grant authority to my agent(s) with respect to the following subjects as defined in sections 5-1502A through 5-1502N of the New York General Obligations Law:

(____) (A) real estate transactions;

(____) (B) chattel and goods transactions;

(____) (C) bond, share, and commodity transactions;

(____) (D) banking transactions;

(____) (E) business operating transactions;

(____) (F) insurance transactions;

(____) (G) estate transactions;

(____) (H) claims and litigation;

(____) (I) personal and family maintenance: If you grant your agent this authority, it will allow the agent to make gifts that you customarily have made to individuals, including the agent, and charitable organizations. The total amount of all such gifts in any one calendar year cannot exceed five thousand dollars;

(____) (J) benefits from governmental programs or civil or military service;

(____) (K) financial matters related to health care; records, reports, and statements;

(____) (L) retirement benefit transactions;

(____) (M) tax matters;

(____) (N) all other matters;

(____) (O) full and unqualified authority to my agent(s) to delegate any or all of the foregoing powers to any person or persons whom my agent(s) select;

(____) (P) EACH of the matters identified by the following letters _____.

You need not initial the other lines if you initial line (P).

(g) CERTAIN GIFT TRANSACTIONS: (OPTIONAL)

In order to authorize your agent to make gifts in excess of an annual total of $5,000 for all gifts described in (I) of the grant of authority section of this document (under personal and family maintenance), and/or to make changes to interest in your property, you must expressly grant that authorization in the Modifications section below. If you wish to authorize your agent to make gifts to himself or herself, you must expressly grant such authorization in the Modifications section below. Granting such authority to your agent gives your agent the authority to take actions which could significantly reduce your property and/or change how your property is distributed at your death. Your choice to grant such authority should be discussed with a lawyer.

(____) I grant my agent authority to make gifts in accordance with the terms and conditions of the Modifications that supplement this Statutory Power of Attorney.

(h) MODIFICATIONS: (OPTIONAL)

In this section, you may make additional provisions, including, but not limited to, language to limit or supplement authority granted to your agent, language to grant your agent the specific authority to make gifts to himself of herself, and /or language to grant your agent the specific authority to make other gift transactions and/or changes to interests in your property. Your agent is entitled to be reimbursed from your assets for reasonable expenses incurred on your behalf. In this section, you may make additional provisions if you ALSO wish your agent(s) to be compensated from your assets for services rendered on your behalf, and you may define "reasonable compensation."

(i) DESIGNATION OF MONITOR(S): (OPTIONAL)

If you wish to appoint monitor(s), initial and fill in the section below:

(____) I wish to designate _____, whose address(es) is (are) _____, as monitor(s). Upon the request of the monitor(s), my agent(s) must provide the monitor(s) with a copy of the power of attorney and a record of all transactions done or made on my behalf. Third parties holding records of such transactions shall provide the records to the monitor(s) upon request.

(j) COMPENSATION OF AGENT(S):

Your agent is entitled to be reimbursed from your assets for reasonable expenses incurred on your behalf. If you ALSO wish your agent(s) to be compensated from your assets for services rendered on your behalf, and/or you wish to define "reasonable compensation", you may do so above, under "Modifications".

(k) ACCEPTANCE BY THIRD PARTIES:

I agree to indemnify the third party for any claims that may arise against the third party because of reliance on this Power of Attorney. I understand that any termination of this Power of Attorney, whether the result of my revocation of the Power of Attorney or otherwise, is not effective as to a third party until the third party has actual notice or knowledge of the termination.

(l) TERMINATION:

This Power of Attorney continues until I revoke it or it is terminated by my death or other event described in section 5-1511 of the General Obligations Law.

Section 5-1511 of the General Obligations Law describes the manner in which you may revoke your Power of Attorney, and the events which terminate the Power of Attorney.

(m) SIGNATURE AND ACKNOWLEDGMENT:

In Witness Whereof I have hereunto signed my name on _____, 20__

PRINCIPAL signs here: ====> _____

STATE OF NEW YORK)
) ss:
COUNTY OF _____)

On the ____ day of _____, 20__, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____
Notary Public

(n) SIGNATURE OF WITNESSES:

By signing as a witness, I acknowledge that the principal signed the Power of Attorney in my presence and in the presence of the other witness, or that the principal acknowledged to me that the principal's signature was affixed by him or her or at his or her direction. I also acknowledge that the principal has stated that this Power of Attorney reflects his or her wishes and that he or she has signed it voluntarily. I am not named herein as an agent or as a permissible recipient of gifts.

_____ _____
Signature of Witness 1 *Signature of Witness 2*

_____	_____
Date	*Date*
_____	_____
Print name	*Print name*
_____	_____
Address	*Address*
_____	_____
City, State, Zip Code	*City, State, Zip Code*

(o) IMPORTANT INFORMATION FOR THE AGENT:

When you accept the authority granted under this Power of Attorney, a special legal relationship is created between you and the principal. This relationship imposes on you legal responsibilities that continue until you resign or the Power of Attorney is terminated or revoked. You must:

(1) act according to any instructions from the principal, or, where there are no instructions, in the principal's best interest;

(2) avoid conflicts that would impair your ability to act in the principal's best interest;

(3) keep the principal's property separate and distinct from any assets you own or control, unless otherwise permitted by law;

(4) keep a record of all transactions conducted for the principal or keep all receipts of payments and transactions conducted for the principal; and

(5) disclose your identity as an agent whenever you act for the principal by writing or printing the principal's name and signing your own name as "agent" in either of the following manners: (Principal's Name) by (Your Signature) as Agent, or (your signature) as Agent for (Principal's Name).

You may not use the principal's assets to benefit yourself or anyone else or make gifts to yourself or anyone else unless the principal has specifically granted you that authority in the modifications section of this document or a Non-Statutory Power of Attorney. If you have that authority, you must act according to any instructions of the principal or, where there are no such instructions, in the principal's best interest.

You may resign by giving written notice to the principal and to any co-agent, successor agent, monitor if one has been named in this document, or the principal's guardian if one has been appointed. If there is anything about this document or your responsibilities that you do not understand, you should seek legal advice.

Liability of agent: The meaning of the authority given to you is defined in New York's General Obligations Law, Article 5, Title 15. If it is found that you have violated the law or acted outside the authority granted to you in the Power of Attorney, you may be liable under the law for your violation.

(p) AGENT'S SIGNATURE AND ACKNOWLEDGMENT OF APPOINTMENT:

It is not required that the principal and the agent(s) sign at the same time, nor that multiple agents sign at the same time.

I/we, _____, have read the foregoing Power of Attorney. I am/we are the person(s) identified therein as agent(s) for the principal named therein.

I/we acknowledge my/our legal responsibilities.

In Witness Whereof I have hereunto signed my name on _____ 20__

Agent(s) sign(s) here: ==> _____

==> _____

STATE OF NEW YORK)
) ss:
COUNTY OF _____)

On the _____ day of _____, 20__, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____
Notary Public

(q) SUCCESSOR AGENT'S SIGNATURE AND ACKNOWLEDGMENT OF APPOINTMENT:

It is not required that the principal and the SUCCESSOR agent(s), if any, sign at the same time, nor that multiple SUCCESSOR agents sign at the same time. Furthermore, successor agents can not use this power of attorney unless the agent(s) designated above is/are unable or unwilling to serve.

I/we, _____, have read the foregoing Power of Attorney. I am/we are the person(s) identified therein as SUCCESSOR agent(s) for the principal named therein.

In Witness Whereof I have hereunto signed my name on _____ 20__

Successor Agent(s) sign(s) here: ==> _____

==> _____

STATE OF NEW YORK)
) ss:
COUNTY OF _____)

On the _____ day of _____, 20___, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____
Notary Public

LAST WILL AND TESTAMENT

I, _____, of _____, **[and a citizen of the United States of America,]** declare this to be my Last Will and Testament, and I revoke all prior wills and codicils made by me.

ARTICLE FIRST

FAMILY MEMBERS

[I am [divorced] [a widower] and my children from my [prior] marriage to _____ are:] [I am not married] [and have never been married.] [My children are _____, _____, and _____]. I have no **[other]** living or deceased children. **[I have made such provisions in this Will as I deem appropriate for any after-borns or after-adopteds. I direct that no provision of law granting rights to after-borns or after-adopteds shall apply to any such person.]**

ARTICLE SECOND

DEBTS AND FUNERAL AND ADMINISTRATION EXPENSES

I direct my Executors to pay all my enforceable unsecured debts, the expenses of my last illness, my funeral expenses, and the administration expenses of my estate.

ARTICLE THIRD

SPECIFIC GIFTS

[A. SPECIFIC **[AMOUNT]** GIFTS**.**

1. I give my _____ to _____, if living at my death.

2. I give $_____ to _____, if living at my death.]

B. TANGIBLE PERSONAL PROPERTY. I give **[the balance] [all]** of my tangible personal property, and any insurance thereon, **[to such of my children as are living at my death, in substantially equal shares, to be divided as they shall agree or, if they are unable to agree for any reason, or if any of them is a minor, as my Executors shall determine, having due regard for my children's personal preferences (my Executors' determination to be conclusive)] [to _____].] [I authorize my Executors to retain or dispose of such property and I direct them to add it or any proceeds thereof to my residuary estate.]**

C. RESIDENCES. I give my personal and vacation residences (whether in the form of real property or stock and lease relating to a cooperative apartment), and all policies and proceeds of insurance thereon, subject to any mortgage or encumbrance thereon, to **[such of my children as are living at my death, in substantially equal shares, to be divided as they shall agree or, if they are unable to agree for any reason, or if any of them is a minor, as my Executors shall determine] [_____]**. If **[none of my children are] [_____ is not]** living at my death, I authorize my Executors to retain or dispose of such property and I direct them to add it or any proceeds thereof to my residuary estate.

ARTICLE FOURTH

RESIDUARY ESTATE

I give my residuary estate **[to my issue, per stirpes, who are living at my death.] [to such of my children as are living at my death,] or, if none of my children are living] [to _____, or, if _____ is not living], [my residuary estate shall be divided into as many equal shares as are effectively disposed of below and shall pay such shares as follows:**

A. _____ share to _____, if living at my death, **[or, if not, to _____'s issue, per stirpes, who are living at my death]**;

B. _____ share to _____, if living at my death, **[or, if not, to _____'s issue, per stirpes, who are living at my death]**;

C. _____ share to _____, if living at my death, **[or, if not, to _____'s issue, per stirpes, who are living at my death]**;

D. _____ share to _____, if living at my death, **[or, if not, to _____'s issue, per stirpes, who are living at my death]**; and

E. Any disposition in this Article that is ineffective shall be added pro rata to those dispositions in this Article that are effective.]

-OR-

[I give my residuary estate to _____ and _____, if living at my death, in equal shares, or all to the survivor if only one of them is living at my death.]

ARTICLE FIFTH

FIDUCIARIES

I name **[NAME IN CAPS]**, as Executor of this Will. If, for any reason _____ fails to qualify or ceases to act, I name **[NAME IN CAPS]**, as Executor of this Will.

[include if likely to have minor children: In the event that I shall die as the sole parent and guardian of any child of mine who is under the age of 18 years, I name _____ [and _____, or the survivor], as Guardian[s] of the person and property of each

such child of mine. [If they both fail to qualify or cease to act as Guardian[s], I name _____, as such Guardian.]]

No Executor **[or Guardian]** shall be required to file a bond or other security or render periodic accounts**[, nor shall any Guardian be required to qualify within the time limitation prescribed by Section 1711(2) of the New York Surrogate's Court Procedure Act]**.

ARTICLE SIXTH

FIDUCIARY POWERS

Without regard to any statutory or judicial restrictions applying to fiduciaries and in addition to the powers granted by law, I give my Executors the following powers, to be exercised in my Executors' absolute discretion, with respect to any property, real or personal, that is part of my estate: to retain any such property for any period of time; to sell any such property at either public or private sale and for cash or on credit; to exchange, and to grant options to purchase, any such property; to borrow money and to pledge or mortgage any such property as security; to lease real property for any period of time, even in excess of three years; to invest and reinvest in property of any character and wheresoever situated without being limited to so-called legal investments; to employ custodians, accountants, agents, attorneys-in-fact, experts, and both legal and investment counsel, to delegate powers to, and rely upon information and advice furnished by them, and to compensate them out of principal or income (such compensation shall not affect the compensation to which my Executors may be entitled); to compromise claims in favor of or against my estate; to make any division or distribution of my estate in property or cash, or partly in property and partly in cash, and to allocate assets other than ratably and without regard to the adjusted basis for income tax purposes of any such property; to exercise or refrain from exercising any election or option available to my estate regardless of the fact that the federal or state estate or

income tax on my estate is thereby increased; to take control of, conduct, continue, or terminate any and all accounts of mine on any social networking web site, microblogging, or short message service web site or email service web site; and generally with respect to such property to do all such acts, enter into all such proceedings, exercise all such rights and privileges, and execute any and all such written instruments as if the absolute owner thereof.

ARTICLE SEVENTH

PERSONS UNDER AGE 21

If any property is distributable to a person under age 21 (a "Minor"), title shall vest in that Minor but my Executors may retain custody of the property until the Minor reaches age 21 and may pay any or all of the income or principal to the Minor for any purpose whatsoever and accumulate and add to principal any unpaid income. My Executors shall deliver the property to the Minor at age 21; if the Minor dies before attaining age 21, my Executors shall deliver the property to the Minor's estate.

At any time my Executors may deliver all or a portion of the property to the Minor's parent, guardian, or custodian under the Uniform Gifts to Minors Act, Uniform Transfers to Minors Act, or any similar act of any jurisdiction, whose receipt shall be a full discharge to my Executors.

For acting under this Article, my Executors shall be entitled to the compensation of a trustee of a testamentary trust under the laws of the State of _____.

ARTICLE EIGHTH

TAX APPORTIONMENT

All estate, inheritance, succession, transfer, and other death taxes, including interest and penalties, payable to any domestic or foreign taxing authority with respect to any property passing under this Will shall be charged against and paid without apportionment out of my residuary estate as an

expense of administration. Such taxes with respect to property passing outside of this Will shall be apportioned against, and paid out of (or paid by the recipient of) such property with respect to which such taxes are imposed.

[ARTICLE NINTH

SPECIAL DISTRIBUTION RULES

Notwithstanding the provisions of any part of this Will, if any beneficiary hereunder is or shall become disabled or incapacitated, institutionalized and/or shall be receiving nursing or other "in home" or out-patient basis services, thereby entitling the beneficiary to public benefits such as Medicaid or Supplemental Security Income ("SSI"), the property to which such beneficiary shall be entitled under this Will shall be distributed to a trustee to be held in a supplemental needs trust for his or her benefit in accordance with New York Estates, Powers and Trusts Law § 7-1.12, the assets of which shall be used to supplement, not supplant, any benefits or assistance of any federal, state, county, city, or other governmental entity. My Executors shall designate the trustee. My Executors may designate any one of them as trustee unless such Executor is a beneficiary hereunder who is entitled to receive public benefits such as Medicaid or SSI. The trustee shall have the same fiduciary powers as my Executors set forth in Article SIXTH hereunder to be exercised in such trustee's absolute discretion. The trustee's discretion as to the need, propriety or amount of any distributions to or for the benefit of the beneficiary shall be limited solely to providing only those comforts and luxuries not otherwise provided by such institution and/or any such health care professionals and/or organizations, under any publicly-funded program or from other sources (public or private), and then only in the trustee's sole and absolute discretion. Under no circumstances shall the trustee exercise discretion to utilize funds for the payment of such services that would otherwise be borne by any publicly-funded program or by the institution.]

IN WITNESS WHEREOF, I have hereunto set my hand and seal this _____ day

_____, in the year Two Thousand _____.

_____(L.S.)

SIGNED, SEALED, PUBLISHED, AND DECLARED by _____, the Testator above named, as and for the Testator's Last Will and Testament, in our presence, and we, at the Testator's request, in the Testator's presence, and in the presence of each other, have hereunto subscribed our names as witnesses on the day and year last above written.

_____ residing at _____

_____

_____ residing at _____

_____

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STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

Each of the undersigned, _____, and _____, individually and severally being duly sworn, deposes and says:

The within Will was subscribed in our presence and sight at the end thereof by _____ (the "Testator") on the _____ day of _____, 20____ at _____, New York, New York.

The Testator at the time of making such subscription declared the instrument so subscribed to be the Testator's Last Will and Testament. Each of the undersigned thereupon signed his or her name as a witness at the end of such Will, at the request of the Testator and in the Testator's presence and sight and in the presence and sight of each other.

The Testator was, at the time of so executing such Will, over the age of 18 years, and, in the respective opinions of the undersigned, of sound mind, memory, and understanding and not under any restraint or in any respect incompetent to make a Will. The Testator, in the respective opinions of the undersigned, could read, write, and converse in the English language and was suffering from no defect of sight, hearing, or speech, or from any other physical or mental impairment, which would affect the Testator's capacity to make a valid Will. This Will was executed as a single, original instrument and was not executed in counterparts.

Each of the undersigned was acquainted with the Testator at such time and makes this affidavit at the Testator's request.

The within Will was shown to the undersigned at the time this affidavit was made and was examined by each of them as to the signatures of the Testator and of the undersigned.

The foregoing instrument was executed by the Testator and witnessed by each of the undersigned affiants under the supervision of _____, an attorney-at-law.

_____

_____

Severally sworn to before me
this ____ day of _____, 20____.

_____
Notary Public

This Document Prepared by: [FULL NAME] [ADDRESS] [CITY, STATE, ZIP] [PHONE] **After Recording Return to:** [FULL NAME] [ADDRESS] [CITY, STATE, ZIP]	This Space for Recorder's Use Only.

New York Revocable Transfer on Death Deed

NOTICE TO TRANSFEROR

You should carefully read all information at the end of this form. This form must be recorded before your death, or it will not be effective.

IDENTIFYING INFORMATION

Transferor or Transferors Making This Deed:

[FULL NAME OF OWNER 1], [OWNER 1 MAILING ADDRESS]

[FULL NAME OF OWNER 2], [OWNER 2 MAILING ADDRESS]

Legal description of the property:

[LEGAL DESCRIPTION OF PROPERTY]

PRIMARY BENEFICIARY

I designate the following beneficiary if the beneficiary survives me:

[FULL NAME OF BENEFICIARY], [BENEFICIARY MAILING ADDRESS]

[FULL NAME OF BENEFICIARY 2], [BENEFICIARY 2 MAILING ADDRESS]

ALTERNATE BENEFICIARY – Optional

If my primary beneficiary (or primary beneficiaries, if multiple) do not survive me, I designate the following alternate beneficiary if that beneficiary survives me:

[FULL NAME OF ALTERNATE BENEFICIARY]

[ALTERNATE BENEFICIARY MAILING ADDRESS]

TRANSFER ON DEATH

At my death, I transfer my interest in the described property to the beneficiaries as designated above. Before my death, I have the right to revoke this deed.

SIGNATURE OF TRANSFEROR OR TRANSFERORS MAKING THIS DEED

Signature: _____ **Date:** [DATE]

Printed Name: [PRINTED NAME]

Signature: _____ **Date:** [DATE]

Printed Name: [PRINTED NAME]

Witness 1 Signature: _____

Printed Name and Date: [PRINTED NAME] [DATE]

Witness 2 Signature: _____

Printed Name and Date: [PRINTED NAME] [DATE]

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NOTARY ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of New York }
County of _____ }

On _____, 20____, before me, _____ (insert name and title of the officer), personally appeared _____ (seller's name) who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed within the Transfer on Death Deed and acknowledged to me that they executed the same in their authorized capacity, and that by their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the state of _____ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public: _____
Print Name: _____
My Commission Expires: _____, 20____

(seal)

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LIFE ESTATE DEED

THIS INDENTURE, made the ____ day of _____, 202_,

Between

_____, residing at _____,

party of the first part, and;

_____, residing at _____, reserving a life estate in the life of _____ residing at _____,

party of the second part,

WITNESSETH, that the party of the first part, in consideration of Ten Dollars and No Cents ($10.00), lawful money of the United States, paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the County of _____ and the City and State of New York, more particularly described in schedule A attached hereto;

Being and intended to be the same premises conveyed to _____who acquired title from _____, by deed dated _____ and recorded on _____ in CRFN _____ in the City Register of the City of New York, State of New York, County of _____.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof,

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises,

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the costs of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

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_____
Grantor

_____
Grantor

IN PRESENCE OF:

_____

STATE OF NEW YORK)
)ss.:
COUNTY OF _____)

On the ____ day of June in the year 2024, before me, the undersigned, personally appeared ----------, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is are subscribed to the within instrument and acknowledged to me that ---------- executed the same in their capacity(ies), and that by their signatures on the instrument, the individuals, or the person upon behalf of which the individuals acted, executed the instrument.

_____
NOTARY PUBLIC

HEIRSHIP DEED
WITHOUT COVENANT AGAINST GRANTOR'S ACTS

[NAME OF GRANTOR],
[as sole heir at law and next of kin of _____, deceased]

TO

[NAME OF GRANTEE]

DATED: _____

Block: _____
Lot: _____
County: _____
Address: _____

RECORD AND RETURN TO:
----------, Esq.
City Bar Justice Center
42 West 44th Street
New York, New York 10036

HEIRSHIP DEED
WITHOUT COVENANT AGAINST GRANTOR'S ACTS

THIS INDENTURE, made as of the ____ day of _____, 20_____, by and between _____, with an address at _____ , as [____][sole [heir-in-law][beneficiary] to the estate of _____, _____ (deceased)], ("Grantor"),

and _____, with an address at _____ ("Grantee"), with respect to the real property with an address designated as _____ and located in the borough of _____, City and State of New York.

WITNESSETH, that Grantor, in consideration of Ten Dollars ($10.00), lawful money of the United States, paid by Grantee, does hereby remise and release unto Grantee, the heirs or successors and assigns of Grantees forever:

ALL the land designated by the address _____, being also known as Tax Lot _____ in Block _____ on the Tax Map of the City of New York, _____ County, all as more particularly described on Exhibit A (the "Land");

TOGETHER with the building(s) now located or hereafter erected on the Land (the "Building") and any and all other fixtures and improvements now located or hereafter erected on the Land (the Building and such other fixtures and improvements being hereinafter collectively referred to as the "Improvements"), [in accordance with the above mentioned division of interest];

TOGETHER with all right, title and interest, if any, of Grantor in and to the land lying in the bed of any street, highway, road or avenue, opened or proposed, public or private, in front of or adjoining the Land, to the center line thereof, any rights of way, appendages, appurtenances, easements, sidewalks, alleys, gores or strips of land adjoining or appurtenant to the Land and used in conjunction therewith, any development rights appurtenant to the Land and any award or payment made or to be made in lieu of any of the foregoing or any portion thereof and any unpaid award for damage to the Land or any of the Improvements by reason of change of grade or closing of any street, road or avenue, (the foregoing rights, together with the Land and the Improvements being herein referred to, collectively, as the "Premises"), [in accordance with the above mentioned division of interest];

INTENDED TO BE the same premises conveyed to _____, by deed dated _____, and recorded in the _____County Office of the City Register on _____, CRFN _____. [The said _____ died intestate, a resident of the State of New York on _____, leaving one [relationship], _____, and [having no issue].]

TO HAVE AND TO HOLD the Premises unto Grantee, the heirs or successors and assigns of Grantee forever.

AND Grantor, in compliance with Section 13 of the Lien Law, covenants that Grantor will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied for the purpose of paying the cost of the improvements at the Premises before using any part of the total of the same for any other purpose.

IN WITNESS WHEREOF, Grantor and Grantee have duly executed this deed the day and year first above written.

GRANTORS:

By: _____
[NAME], as _____

GRANTEE:

By: _____
[NAME]

STATE OF NEW YORK)
) ss.:
COUNTY OF _____)

On the _____day of _____ in the year 20_____ before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person or entity upon behalf of which the individual acted, executed the instrument.

_____
Notary Public

STATE OF NEW YORK)
) ss.:
COUNTY OF _____)

On the _____day of _____ in the year 20_____ before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person or entity upon behalf of which the individual acted, executed the instrument.

_____
Notary Public

A30

EXHIBIT A TO DEED

INSERT FULL METES AND BOUNDS LEGAL DESCRIPTION HERE AND REFERENCE BUILDING BLOCK AND LOT NUMBER IF APPLICABLE

HEIRSHIP AFFIDAVIT

DEED APPENDIX

STATE OF NEW YORK)
) SS:
COUNTY OF _____)

I, _____, being duly sworn, depose and say that:

I am making this affidavit in order to identify relatives of _____ ("Decedent") for whomever may be interested in this information. I am aware that others will rely on the truthfulness of the facts recited herein.

I reside at _____. I am the [describe relationship] of Decedent, who resided at [address of Decedent], and passed away on [date of death of Decedent]. I have known Decedent since [she/he was born on DOB][specific date][x # of years] and I know all of Decedent's immediate family.

The following are all the living heirs of Decedent: [list out each heir, relationship and whether predeceased or living at time of death, e.g., spouse, children, parents, grandchildren, etc.]

[Spouse:][or state unmarried above]

[Child:][also list out heirs of predeceased children]

[Father/Mother:][include only if unmarried and no children]

[Other relative such as sibling, cousin, aunt, or uncle if no spouse, child or parent]

_____

Subscribed and sworn to before me
on _____, _____.

_____
Notary Public

A32

TENANCY IN COMMON AGREEMENT
(Multi-Family Heirs Property)

This Tenancy in Common Agreement ("Agreement") is entered into as of [DATE], by and among the following individuals (collectively, the "Co-Owners" or individually, a "Co-Owner"):

- [Full Legal Name, Address]
- [Full Legal Name, Address]
- [Full Legal Name, Address]
  [Insert all co-owners' names and addresses]

RECITALS

WHEREAS, the Co-Owners have inherited the property commonly known as [Property Address], New York (the "Property"), a [#]-unit residential building, as tenants in common, each holding an undivided ownership interest as set forth herein; and

WHEREAS, the Co-Owners wish to define and govern their respective rights and obligations with respect to ownership, management, use, income, expenses, and disposition of their interests in the Property;

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties agree as follows:

1. Ownership Interests

Each Co-Owner owns the following undivided percentage interest in the Property:

-
-
-

[Specify ownership percentages based on inheritance or agreement.]

2. Use and Occupancy

2.1 **Exclusive Occupancy.** Co-Owner [Name] ("Resident Owner") shall have the exclusive right to occupy Unit [#] of the Property as their primary residence without paying rent to the other Co-Owners, in recognition of services rendered in managing and maintaining the Property, as outlined in Section 3 below.

2.2 **Rental Units.** The remaining units shall be rented to third-party tenants, and all net rental income shall be distributed to the Co-Owners in proportion to their ownership interests, subject to expenses and reserves as described in Sections 4 and 5.

3. Management and Maintenance

3.1 **Designated Manager.** The Resident Owner shall serve as the manager of the Property unless removed by a majority vote (based on ownership percentage) of the Co-Owners for cause.

3.2 **Duties of Manager.** The Resident Owner shall be responsible for:

- Coordinating repairs and maintenance
- Collecting rent and security deposits
- Paying property taxes, insurance, utilities, and other bills
- Maintaining accurate books and records
- Providing annual financial reports to all Co-Owners
- Managing tenant relations, leases, and rent collection

3.3 **Reimbursement and Compensation.** The Resident Owner shall be reimbursed from the Property's gross income for any reasonable out-of-pocket expenses incurred in managing and maintaining the Property. The Resident Owner may receive a monthly management fee of $[Amount], subject to unanimous approval of the Co-Owners.

4. Income and Expense Sharing

4.1 **Rental Income.** All net rental income from non-owner-occupied units, after payment of operating expenses and reserves, shall be distributed to the Co-Owners in proportion to their respective ownership interests.

4.2 **Operating Expenses.** All property expenses (including taxes, insurance, utilities, repairs, legal and accounting fees) shall be paid from rental income or, if insufficient, by special assessment contributed by each Co-Owner in proportion to ownership.

5. Reserve Fund

A reserve fund shall be maintained by the Resident Owner in a separate bank account for major repairs and capital improvements, with a minimum balance of $[Amount] to be reviewed annually. Contributions to the reserve fund shall be made from net rental income before distributions.

6. Books, Records, and Access

The Resident Owner shall maintain accurate records of all financial transactions, lease agreements, and maintenance activities, available to all Co-Owners upon reasonable notice. Each Co-Owner shall have reasonable access to the common areas of the Property and the books and records.

7. Transfers of Interest and Right of First Refusal

7.1 **No Partition.** The Co-Owners waive the right to seek partition of the Property and agree that no Co-Owner may seek a court-ordered sale or division of the Property without unanimous written consent.

7.2 **Voluntary Transfer.** A Co-Owner wishing to sell or transfer their interest shall first offer it in writing (the "Notice of Intent to Sell") to the other Co-Owners on the same terms and conditions as a bona fide third-party offer, if any.

7.3 **Right of First Refusal.** The other Co-Owners shall have 60 days from receipt of the Notice of Intent to Sell to elect, by written notice, to purchase the offered interest in proportion to their existing ownership percentages or as otherwise agreed among themselves.

7.4 **Closing Terms.** The purchase price and terms shall match those in the third-party offer or be mutually agreed upon. Closing shall occur within 60 days of acceptance unless extended by agreement.

7.5 **Failure to Exercise Right.** If no Co-Owner elects to purchase within the 60-day period, the selling Co-Owner may transfer the interest to the third-party buyer, subject to the terms of this Agreement and provided the buyer agrees in writing to be bound by its terms.

8. Insurance

The Property shall be insured against casualty, liability, and loss in an amount sufficient to cover full replacement cost. The Resident Owner shall obtain and maintain the insurance policy, naming all Co-Owners as insureds or additional insureds.

9. Dispute Resolution

Any disputes arising under this Agreement shall first be submitted to mediation in [County], New York, and if unresolved, may be resolved through arbitration under the rules of the American Arbitration Association, unless otherwise agreed.

10. Amendments and Termination

This Agreement may only be amended or terminated by a written instrument signed by all Co-Owners. Upon sale of the entire Property to a third party, this Agreement shall terminate.

11. Miscellaneous

11.1 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

11.2 **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties and their heirs, successors, and assigns.

11.3 **Severability.** If any provision is held invalid, the remaining provisions shall remain in full force.

11.4 **Entire Agreement.** This Agreement constitutes the full and complete understanding among the Co-Owners and supersedes all prior oral or written agreements.

(Signatures on Following Page)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

[Signature lines for each Co-Owner with notarization block]

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF _____

----------x

Plaintiff(s),

v.

Defendant(s).

----------x

Index No. _____

PRO SE ANSWER TO PARTITION ACTION COMPLAINT AND □COUNTERCLAIMS
[Defendant: check this box if you checked any item in the "counterclaim" section below]

Defendant(s) _____

Pro Se, answer(s) the complaint in this proceeding as follows:

1. I/We generally deny each allegation of the Complaint, including that Plaintiff is a bona fide purchaser for value.

I/We plead the following Defenses and Counterclaims.

DEFENSES

☐ 2. **Statutory Prohibition** (NY RPAPL 993(12))**:** Plaintiff is barred from prosecuting this action pursuant to NY RPAPL 993(12) because Plaintiff, upon information and belief, did not acquire its putative share through inheritance.

☐ 3. **Lack of Standing:** Upon information and belief, Plaintiff lacks standing to prosecute this proceeding.

☐ 4. **Lack of Capacity:** Upon information and belief, Plaintiff lacks legal capacity to sue.

☐ 5. **Statute of Limitations:** Upon information or belief, this action is barred, in whole or in part, by the governing statute of limitations.

☐ 6. **Service of Process** (NY CPLR 308)**:** I was not properly served with process in this action for the following reason(s):_____

_____

_____

_____

_____

_____.

☐ 7. **Prior Pending Action:** Upon information and belief, there is another action between the same parties for the same cause of action in a court of any state in the United States of America.

☐ 8. **Failure to State Cause of Action:** (NY RPAPL 901): Upon information and belief, the Complaint fails to state a partition cause of action as a material element is missing (*check all that apply):*

☐ a. Upon information and belief, the Complaint fails to set forth Plaintiff's interest in the property, which is an essential element of a partition cause of action.

☐ b. Upon information and belief, the Complaint fails to allege that Plaintiff and Defendant(s) are joint tenants and/or tenants in common of the subject property.

☐ c. Upon information and belief, the Complaint fails to allege that physical partition would come at great prejudice to the owners.

☐ 9. **Failure to Join a Necessary Party:** Plaintiff has failed to join _____, who holds an interest in the subject property, as a defendant in this action.

☐ 10. **Real Party in Interest:** Upon information and belief Plaintiff is not the real party in interest and is prosecuting this action on behalf of a party which is barred from prosecuting this action pursuant to NY RPL 993(12).

☐ 11. **Request for Judicial Intervention:** Upon information and belief,

☐ Plaintiff did not file a Request for Judicial Intervention pursuant to NY RPAPL 993(5).

☐ Plaintiff did not timely file the Request for Judicial Intervention as required under NY RPAPL 993(5).

☐ 12. **Uniform Partition of Heirs Property Act Settlement Conference:** This action cannot proceed until the settlement conference process mandated by NY RPAPL 993(5) is exhausted.

☐ 13. **Action Commenced Against a Deceased Party:** This action is a nullity because it was commenced against Defendant(s) _____ after that party was already deceased and it should, therefore, be dismissed.

☐ 14. **Unclean Hands/Unconscionability:** This action is barred by the doctrine of unclean hands and/or unconscionability for the following reason(s):

_____

_____

_____

_____

_____.

☐ 15. **Champerty** (NY Judiciary Law 489)**:** Upon information and belief, Plaintiff purchased its interest in the subject property for the sole purpose of commencing this partition action and this action is therefore subject to dismissal pursuant to NY Judiciary Law 489.

☐ 16. **Prejudice from Partition** (NY RPAPL 993(9)**:** Partition in kind would result in great manifest prejudice because (*check all that apply*):

☐ a. The property may not be practicably divided among the various owners.

☐ b. Partition in kind would result in a lower fair market value of the parcels resulting from the division than the amount reasonably expected to be realized if the property were sold as a whole.

☐ c. My family has owned and/or possessed the property since approximately _____.

☐ d. I have a sentimental attachment to the property because the property has ancestral or other unique or special value to me because:

_____

_____

_____

_____.

☐ e. The property is my primary residence and I would be harmed if I could not continue the same use of the property as my primary residence
because:_____

_____

_____.

☐ f. I have contributed a pro rata share of the property taxes, insurance and other expenses associated with maintaining the ownership of the property or have contributed to the physical improvement, maintenance, or upkeep of the property.

☐ g. Upon information and belief, the price, terms and/or conditions of Plaintiff's acquisition of the interest in the subject property is not in proportion with the percent stake Plaintiff acquired in the property.

☐ 17. **Right of First Refusal:** This action may not proceed until I/We have an opportunity to exercise our right of first refusal pursuant to NY RPAPL 993(13).

☐ 18. **Fair Market Value:** Upon information and belief, Plaintiff(s) purchased its/their share in the subject property for less than fair market value and its/their interest in the subject property should be valued no greater than Plaintiff(s)'s purchase price.

☐ 19. **Unjust Enrichment:** Upon information and belief, Plaintiff(s) is/are prosecuting this action at the behest of an investor who has or intends to purchase their fractional share in the property for less than fair market value, and will therefore be unjustly enriched by the forced partition sale of the property at my expense, and it would be against equity and good conscience to permit Plaintiff to force a partition, which equity should not permit under these circumstances.

COUNTERCLAIMS

☐ 20. **Adverse Possession/Quiet Title:** I have openly, continuously, exclusively, adversely, and notoriously possessed the property for the past 10 years or more.

☐ a. I have resided at the property continuously since _____.

☐ b. I never had permission from Plaintiff and/or Plaintiff's predecessor-in-interest to reside at the property.

☐ c. I have paid taxes on the property.

☐ d. I have held myself out as the owner of the subject property to neighbors of the subject property.

☐ e. I have made improvements to the subject property including but not limited to:_____

_____

_____

_____.

☐ 21. **Accounting:** I/We demand an accounting between the parties because Plaintiff(s) has not in any way shared in the care and maintenance of the subject property and Defendant(s) is entitled to be credited for its costs in maintaining the property.

☐ 22. **Co-Tenant Buyout** (NY RPAPL 993(7))**:** I/We request to exercise my/our right to purchase all of the interests of the co-tenants who requested partition by sale.

☐ 23. **Waste (NY RPAPL 817):** Plaintiff has committed waste against the property and Defendant(s) is/are entitled to compensatory damages therefor.

☐ 24. **Discretionary Award:** I/We am/are entitled to an award pursuant to NY CPLR 8303 (a)(3) and to costs pursuant to NY CPLR 8201.

☐ 25. **Other Defenses or Counterclaims** (attach additional pages if needed):_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____.

WHEREFORE, Defendant(s) request(s) that the Complaint be dismissed; that the relief requested by Defendant be granted in its entirety; and that the Court grant any other relief allowed by law deemed just and proper by this Court in the exercise of its equity jurisdiction in this partition action.

Dated: _____

_____, New York

_____, Defendant *Pro Se*

(Defendant's Signature)

_____

(Defendant's Name)

_____

(Defendant's Address)

_____

(Defendant's Address)

_____

(Defendant's Telephone Number)

☐ *Prepared with the assistance of counsel admitted in New York.*

VERIFICATION

I, _____, affirm this _____, day of _____, 20__, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that that the within Answer is true to the best of my knowledge, except as to the matters herein stated to be alleged on information and belief, which, I believe to be true. I understand that this document may be filed in an action or proceeding in a court of law.

_____
(Defendant's Name)

_____
(Defendant's Signature)

AFFIRMATION OF SERVICE

I, _____, served the within _____ on Plaintiff's attorney as follows: (*attorney's name and address*)

_____

_____

_____

_____

I served the _____ on the ____ day of _____, 20__, by the following method: (*check all that apply*)

- ☐ First class mail
- ☐ Certified mail
- ☐ Certified mail, return receipt requested
- ☐ Overnight delivery service
- ☐ Facsimile
- ☐ Personal delivery
- ☐ E-filing via NYSCEF

I am eighteen years or older and I am not a Defendant in this lawsuit.

I affirm this _____, day of _____, 20____, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.

Signature:_____

Print Name:_____

A45

Administration Proceeding Checklist

(see Surrogate's Court Form A-1, rev. 12/98)

This Checklist is provided for your convenience while completing the petition and the checklist should not be returned to the Court.

Check All Forms To Make Sure Venue Is Correct - Appropriate County Is Listed
Fill In All Areas On All Pages of Petition - Also Mark When Not Applicable Where Necessary

PET ¶ #	DESCRIPTION	YES	NO
	Is the captioned name exactly the same as it appears on the Death Certificate?		
	If A/K/A's, are they listed in the caption and also under ¶2 of petition?		
	Has the type of Letters been checked?		
1.	**Is the petitioner eligible to act and qualify pursuant to SCPA §1001?** (a) surviving adult spouse of decedent (b) adult child (c) adult grandchild (d) parent (e) brother or sister (f) any other person who is a distributee and who is eligible to qualify (g) others as set forth in SCPA §1001(3) to (9)		
	Check citizenship		
	NOTE: A Non-domiciliary alien is ineligible to act as a sole fiduciary [see SCPA §707]		
	Has the interest of the petitioner been checked and specified?		
	Is the proposed administrator an attorney? If so, has a statement been provided pursuant to 22NYCRR 207.16(e)?		
	NOTE: Latter will need an accounting [see 22NYCRR 207.52]		
2.	**Does the information under ¶2 of the Petition agree with the death certificate?** (certified copy of death certificate must be filed with petition) (a) if address on petition does not agree with death certificate, has an explanatory affidavit been filed [see SCPA §206-208] (b) if decedent was a non-domiciliary of the State, has an explanatory affidavit and a request for non-domiciliary treatment been filed setting forth the following: (1) statement that no original probate or administration proceeding has been or will be filed in any jurisdiction (2) statement that the decedent left estate assets in this jurisdiction		

PET ¶ #	DESCRIPTION	YES	NO
2. cont.	(3) statement listing the distributees in the domiciliary jurisdiction or that they are the same as under New York State Law		
3.	**Has everything been answered?** (a) & (b) is all property in decedent's name alone? do not include: jointly held property with right of survivorship; property held in trust for another; assets that have a named beneficiary (c) estimated rent for 18 months has to be included; this amount needs to be considered in determining whether a bond is required and if so, the amount of the bond (d) if there is a pending or contemplated cause of action on behalf of the decedent, has all information requested in petition been provided? (e) has it been checked, if so, is information provided under ¶7 of Petition?		
4.	**This paragraph states that a diligent search has been made to find a will.**		
5.	**Were the court's records searched for a will for safekeeping or an estate/file previously opened? [See SCPA §2507 and §2508]**		
6.	***NOTE: Distributee: Any person entitled to take or share in property under EPTL §4-1.1 and 4-1.2. (SUBMIT A FAMILY TREE IF REQUIRED BY THE COURT.)***		
	Has the number of survivors been listed? **Has "NO" been inserted in all prior classes?** **Has an " X " been inserted in all subsequent classes?**		
	NOTE: If alleged that the decedent was survived by no distributee or only one distributee or where the relationship of distributees to the decedent is grandparents, aunts, uncles, first cousins or first cousins once removed, has an Affidavit of Heirship been submitted - see Court Rules 207.16(c). NOTE: If there are any deceased distributees, provide a copy of the death certificate or provide the date of death.		
7a.	**Are all distributees or other necessary parties who are of full age and under no disability listed with required information? [see Court Rules §207.16(b)]** Renunciation and Waiver: Renunciation of letters of administration and waiver of process may be submitted from any adult, competent person who has a prior or equal right to letters of administration and must consent to the granting of all relief in the "wherefore clause" of the petition. Waivers must be signed and acknowledged. If letters of administration are to be granted to a designee, the name of such designee must be inserted. (Form A-8 to be used by individuals and Form A-9 from a Corporation [example: funeral director and creditors]).		

PET ¶ #	DESCRIPTION	YES	NO
7a. cont.	**If non-marital or adopted-out person, has Schedule A and/or B been attached to Petition?** Notice of Application for Letters of Administration: This notice (Form A-3) must be given to all those listed in the petition who have a right to letters inferior to that of the nominated administrator, or persons who share in the decedent's estate as distributees, but are not eligible to receive letters. If any of these have waived, notice to them is not required. An original affidavit of mailing must accompany the filed notice.		
NOTE: ALL INTERESTED PARTIES MUST CONSENT THAT BOND BE DISPENSED WITH OR FILING OF BOND WILL BE REQUIRED.			
7b.	**Same as 7a above but are persons under disability** **Are infants and persons under disability listed with required information?** Are Schedules A, B, C and/or D attached?		
	NOTE: FOR INFANTS (Attach copy of birth certificate if required by court)		
	NOTE: IF THERE IS A COURT-APPOINTED GUARDIAN (FIDUCIARY) SUBMIT PROOF OF APPOINTMENT.		
	NOTE: IF THERE ARE UNKNOWNS, the following proof has to be submitted: ***affidavit showing that diligent efforts have been made to locate unknown distributees or distributee whose whereabouts are unknown [see Court Rules §207.16(d)]***		
	"DILIGENT SEARCH" requires extensive research, e.g.: ***cemetery and marriage records; telephone books, conversation with other distributees, neighbors, etc.; records of varied Surrogate's Courts; military records; Bureau of Immigration & Naturalization; Social Security Administration; Bureau of Vital Statistics; Department of Motor Vehicles; Bureau of the Census; City directories, Internet***		
	NOTE: PURSUANT TO SCPA §1003(4) ***Jurisdiction over unknown distributees or distributees whose whereabouts are not known need not be secured prior to the issuance of letters, but is required by publication of citation in the accounting proceeding. The Decree granting Administration must so state.***		
8.	**Make sure outstanding debts or funeral expenses are listed (attach copy of funeral bill if paid). If no outstanding expenses, so state. If outstanding expenses, use Form A-9.**		
9.	**Under WHEREFORE Clause: has all relief requested been checked and completed?** **Is petition dated, signed, verified, properly notarized (including proper jurat and expiration date of notary's commission)?**		

PET ¶ #	DESCRIPTION	YES	NO
9. cont.	**Is Combined Verification, Oath and Designation signed?** **does it set forth proposed fiduciary's physical address?** **Is proposed fiduciary a bank? (submit a Consent and Designation)** **Is attorney's name, address and phone number listed?** **Is Part 130 Certification completed by attorney or self-represented party?** **if NOT, has a separate certification as to Part 130 signing requirements been included?**		
If forms are computer generated, has a certification pursuant to Court Rules §207.4 been attached?			

PARTIAL FEE SCHEDULE	SCPA/EPTL§ or Rule #
Have the proper fees been included with petition? Fees per schedule; $6.00 for each Certificate of Appointment. Filing fee is based upon the values of the estate owned individually by the decedent or payable to the Estate - see SCPA §2402(8) 0 but under 10,000 $ 45.00 10,000 but under 20,000 75.00 20,000 but under 50,000 215.00 50,000 but under 100,000 280.00 100,000 but under 250,000 420.00 250,000 but under 500,000 625.00 500,000 and over 1,250.00	2402

COMMENTS AND COURT NOTES		Form Number	SCPA/EPTL§ or Rule #
When Permitted	Whenever decedent dies without a Will, OR Will filed with Court is not offered for Probate.		1001-1004
Forms Always Required	•Petition for Administration •Oath and Designation •Death Certificate •Copy of paid funeral bill or Waiver from funeral director •Self-addressed stamped envelope (if court requires)	A-1 A-1 A-9	1402 207.15(b)

COMMENTS AND COURT NOTES (continued)		Form Number	SCPA/EPTL§ or Rule #
Forms or Documents Sometimes Required	•Administration Citation	A-2	1003
	•Waiver, Renunciation & Consent:		1003(3)
	Individual	A-8	
	Corporation	A-9	
	•Notice of Application for Letters Administration	A-3	1005
	•Affidavit of Mailing Notice of Application	A-4	
	•Notice to Consul General	A-5	207.21
	•Affidavit of Regularity	A-7	
	•Attorney/Fiduciary Affidavit		207.16(e)
	•Affidavit of Due Diligence for Publication		207.16(c)
	•Affidavit of Service	A-10	307
	•Bond		801-805
	•Family Tree Chart	FT-1	207.16(d)
	•Affidavit of Sole Heirship		207.16(c)
	•Death Certificate of deceased spouse, distributee		207.15(c)
	•Obituary Notice (if court requires)		

If the assets exceed $30,000 and one or more distributees refuse to consent that the Administrator serve without bond (or are unable to consent by reason of their being under disability) it may be necessary to obtain a fiduciary bond. See SCPA Article 8.

Proofs of Service of Citation must be filed with the Court at least two (2) working days before the return date.

Guardian Ad Litem will be appointed on or before the return day of process for all unknowns and persons under disability (SCPA §403).

Letters will not be delivered until Notice of Application *(if required)* and Mailing Affidavit are filed.

Review carefully instructions to paragraphs 6 and 7 of the Petition and be sure interested parties are listed in the correct places.

Documents signed by Power of Attorney (Provide certified copy of POA and comply with Section 13-2.3 EPTL and 207.48 Uniform Rules).

Check to be certain all documents are properly acknowledged.

THIS MATERIAL IS PROVIDED FOR INFORMATIONAL/TRAINING PURPOSES ONLY. – It is intended for use in conjunction with review of the applicable statutes and rules of the Surrogate's Court and the Surrogate's Court Operations Manual.

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For Office Use Only

Filling Fee Paid $_____

_____ Certs $ _____

$_____Bond, Fee:_____

Receipt No: _____ No: _____

DO NOT LEAVE ANY ITEMS BLANK

SURROGATE'S COURT OF THE STATE OF NEW YORK

COUNTY OF _____

---------- X

ADMINISTRATION PROCEEDING,

Estate of

a/k/a

Deceased

PETITION FOR LETTERS OF:

☐ Administration

☐ Limited Administration

☐ Administration with Limitations

☐ Temporary Administration

File No. _____

---------- X

TO THE SURROGATE'S COURT, COUNTY OF _____

It is respectfully alleged:

1. The name, domicile and interest in this proceeding of the petitioner, who is of full age, is as follows:

Name: _____

Domicile: _____
(Street Address) (City/Town/Village)

_____
(County) (State) (Zip) (Telephone Number)

Mailing address is: _____
(if different from domicile)

Citizenship (check one): ☐ U.S.A. ☐ Other (specify)_____

Interest of Petitioner (check one):

[ ] Distributee of decedent (state relationship)_____

[ ] Other(specify) _____

Is proposed Administrator an attorney? ☐ Yes ☐ No

[If yes, submit statement pursuant to 22 NYCRR 207.16(e); see also 207.52 (Accounting of attorney-fiduciary).]

The proposed Administrator ☐ is ☐ is not a convicted felon nor is he/she otherwise ineligible, pursuant to SCPA 707 to receive letters.

If the proposed Administrator is a convicted felon,submit a copy of the Certificate of Relief from Civil Disabilities.

2. The name,domicile,date and place of death, and national citizenship of the above-named decedent are as follows:
[The Death Certificate must be filed with this proceeding. If the decedent's domicile is different from that shown on the death certificate, check box [ ] and attach an affidavit explaining the reason for this inconsistency.]

Name: _____

Domicile: _____
(Street Number) (City,Village/Town)

_____
(State) (Zip Code)

Township of: _____ County of: _____

Date of Death: _____ Place of Death: _____

Citizenship: (check one): ☐ U.S.A. ☐ Other (specify)_____

[Note: For Items 3a through c: Do not include any assets that are jointly held, held in trust for another, or have a named beneficiary.]

3.(a) The estimated gross value of the decedent's personal property passing by intestacy is less than

$_____

(b) The estimated gross value of the decedent's real property, in this state, which is [ ] improved, [ ] unimproved, passing by intestacy is less than

$_____

A brief description of each parcel is as follows:

_____

(c) The estimated gross rent for a period of eighteen (18) months is the sum of $ _____

(d) In addition to the value of the personal property stated in paragraph (3) the following right of action existed on behalf of the decedent and survived his/her death, or is granted to the administrator of the decedent by special provision of law, and it is impractical to give a bond sufficient to cover the probable amount to be recovered therein: **[Write "NONE" or state briefly the cause of action and the person against whom it exists, including names and carrier].**

_____

_____

_____

(e) If decedent is survived by a spouse and a parent, or parents but no issue,and there is a claim for wrongful death, check here [☐] and furnish names(s) and address(es) of parent(s) in Paragraph 7. See EPTL5-4.4.

4. A diligent search and inquiry, including a search of any safe deposit box,has been made for a will of the decedent and none has been found. Petitioner(s)(has)(have) been unable to obtain any information concerning any will of the decedent and therefore allege(s),upon information and belief, that the decedent died without leaving any last will.

5. A search of the records of this Court shows that no application has ever been made for letters of administration upon the estate of the decedent or for the probate of a will of the decedent, and your petitioner is informed and verily believes that no such application ever has been made to the Surrogate's Court of any other county of this state.

6. The decedent left surviving the following who would inherit his/her estate pursuant to EPTL4-1.1 and 4-1.2:

a. _____ Spouse(husband/wife).

b. _____ Child or children or descendants of predeceased child or children. **[Must include marital, nonmarital and adopted].**

c. _____ Any issue of the decedent adopted by persons related to the decedent (DRLSection117).

d. _____ Mother/Father.

e. _____ Sisters or brothers, either of whole or half blood, and issue of predeceased sisters or brothers.

f. _____ Grandmother/Grandfather.

g. _____ Aunts or uncles, and children of predeceased aunts and uncles (first cousins).

h. _____ First cousins once removed (children of first cousins).

[Information is required only as to those classes of surviving relatives who would take the property of decedent pursuant to EPTL4-1.1.State "number" of survivors in each class. Insert "No" in all prior classes. Insert "X" in all subsequent classes].

7. The decedent left surviving the following distributees, or other necessary parties, whose names, degrees of relationship, domiciles, post office address and citizenship are as follows:

[Note: Show clearly how each person is related to decedent. If relationship is through an ancestor who is deceased, give name,date of death, and relationship of the ancestor to the decedent. Use rider sheet if space in paragraph (7) is not sufficient. See Uniform Rules 207.16(b).

If any person listed in paragraph(7)is a non-marital person,or descended from an on marital person,attach a copy of the order affiliation or Schedule A. If any person listed in paragraph (7) was adopted by any persons related by blood or marriage to decedent or descended from such persons, attach Schedule B].

7a. The following are of full age and under no disability:[If non-marital or adopted-out person,so indicate by attaching Schedule A and/or B]

Name	Relationship	Domicile and Mailing Address	Citizenship

7b. The following are infants and/or persons under disability: [Attach applicable Schedule A, B, C, and/or D]

Name	Relationship	Domicile and Mailing Address	Citizenship

8. There are no outstanding debts or funeral expenses, except: [Write “NONE” or state same]

9. There are no other persons interested in this proceeding other than those here in before mentioned.

WHEREFORE, your petitioner respectfully prays that: [Check and complete all relief requested]

☐ a. process issue to all necessary parties to show cause why letters should not be issued as requested;

☐ b. an order be granted dispensing with service of process upon those persons named in Paragraph(7) who have a right to letters prior or equal to that of the person nominated, and who are non-domiciliaries or whose names or whereabouts are unknown and cannot be ascertained;

☐ c. a decree award Letters of:

- ☐ Administration to _____
- ☐ Limited Administration to _____
- ☐ Administration with Limitation to _____
- ☐ Temporary Administration to _____

or to such other person or persons having a prior right as may be entitled thereto, and;

☐ d. That the authority of the representative under the forgoing Letters be limited with respect to the prosecution or enforcement of a cause of action on behalf of the estate,as follows: the administrator(s) may not enforce a judgment or receive any funds without further order of the Surrogate.

☐ e. That the authority of the representative under the foregoing Letters be limited as follows:

_____

_____

_____

_____

_____

_____

☐ f. [State any other relief requested.] _____

_____

Dated: _____

1. _____
(Signature of Petitioner)

_____
(Print Name)

2. _____
(Signature of Petitioner)

_____
(Print Name)

STATE OF NEW YORK)
) ss:
COUNTY OF)

COMBINED VERIFICATION, OATH AND DESIGNATION

[For use when petitioner is to be appointed administrator]

I, the undersigned the petitioner named in the foregoing petition, being duly sworn, say:

1. VERIFICATION: I have read the foregoing petition subscribed by me and know the contents thereof, and the same is true of my own knowledge, except as to the matters there in stated to be alleged upon information and belief,and as to those matters I believe it to be true.

2. OATH OF ADMINISTRATOR as indicated above: I am over eighteen (18) years of age and a citizen of the United States; and I will well,faithfully and honestly discharge the duties of Administrator of the goods, chattels and credits of said decedent according to law. I am not ineligible, pursuant to SCPA707,to receive letters and will duly account for all moneys and other property that will come into my hands.

3. DESIGNATION OF CLERK FOR SERVICE OF PROCESS: I do hereby designate the Clerk of the Surrogate's Court of _____ County, and his/her successor in office, as a person on whom service of any process, issuing from such Surrogate's Court may be made in like manner and with like effect as if it were served personally upon me, whenever I cannot be found and served within the State of New York after due diligence used.

My domicile is:_____
(Street/Number) (City,Village/Town) (State) (Zip)

_____
Signature of Petitioner

On the _____ day of _____,20 _____, before me personally came

_____

to me known to be the person described in and who executed the foregoing instrument. Such person duly swore to such instrument before me and duly acknowledged that he/she executed the same.

_____
Notary Public

Commission Expires:

(Affix Notary Stamp or Seal)

Signature of Attorney: _____

Print Name: _____

Firm Name: _____ Tel.No.: _____

Address of Attorney: _____

SURROGATE'S COURT OF THE STATE OF NEW YORK

COUNTY OF

---------- X

PROCEEDING FOR

Estate of

a/k/a

Deceased.

SCHEDULE A

NONMARITAL PERSONS

(PERSONS BORN OUT OF WEDLOCK)

File# _____

---------- X

[NOTE: Nonmarital children (or their issue) who would be distributees if they (or their ancestors) were born in wedlock will not be regarded as distributees unless satisfactory proof is submitted establishing paternity]. See EPTL 4-1.2 which sets forth methods of establishing paternity.

Name of alleged distributee: _____

Date of birth: _____ Relationship to decedent: _____

Name of father: _____

Name of mother: _____

Does the birth certificate contain the father's name? Yes ☐ No ☐

If yes, attach copy of birth certificate.

Has an order of filiation establishing paternity been entered? Yes ☐ No ☐

If yes, attach copy of order.

Did the nonmarital person live with his or her father? Yes ☐ No ☐

If yes, give dates and places of residence: _____

_____

_____

_____

SURROGATE'S COURT OF THE STATE OF NEW YORK COUNTY OF

---------- X

PROCEEDING FOR

Estate of

a/k/a

Deceased.

SCHEDULE B

ISSUE OF THE DECEDENT

WHO WERE THE SUBJECT

OF AN ADOPTION

File # _____

---------- X

Name of child: _____

Relationship to decedent prior to adoption: _____

Date of adoption: _____

Was this a step-parent adoption?(i.e.,was the child adopted by the spouse of the decedent's former spouse?)

Yes☐ No☐

If yes,name of adoptive father or mother: _____

If not a step-parent adoption,indicate below the biological relationship of the adoptive parent to the child:

☐ grandparent(s)

☐ brother or sister

☐ aunt or uncle

☐ first cousin

☐ nephew or niece

Name of the adoptive parent: _____

SURROGATE'S COURT OF THE STATE OF NEW YORK

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COUNTY OF

---------- X

PROCEEDING FOR

Estate of

a/k/a

SCHEDULE C

INFANTS

Deceased. File # _____

---------- X

[NOTE: Please furnish all of the information requested, otherwise the petition may be rejected.]

Name: _____

Date of birth: _____

_____

Relationship to the decedent: _____

With whom does the infant reside? _____

Name of mother: _____

Is she alive? _____

Name of Father: _____

Is he alive? _____

Does infant have a court-appointed guardian? Yes ☐ No ☐

If yes, name and address of guardian: _____

Name: _____

Date of birth: _____

Relationship to the decedent: _____

With whom does the infant reside? _____

Name of mother: _____

Is she alive? _____

Name of Father: _____

Is he alive? _____

Does infant have a court-appointed guardian? Yes ☐ No ☐

If yes,name and address of guardian: _____

SURROGATE'S COURT OF THE STATE OF NEW YORK COUNTY OF

---------- X

PROCEEDING FOR

Estate of

a/k/a

Deceased.

SCHEDULE D

PERSONS UNDER DISABILITY

OTHER THAN INFANTS

File # _____

---------- X

[use additional sheets if more than one]

1. Name: _____ Relationship: _____

Residence: _____

With whom does this person reside? _____

If this person is in prison, name of prison: _____

Does this person have a court-appointed fiduciary? Yes☐ No☐

If yes,give name,title and address: _____

_____

If no,describe nature of disability: _____

_____

If no,give name and address of relative or friend interested in his or her welfare: _____

_____

2. Where abouts unknown/Unknowns [persons whose addresses or names are unknown to petitioner;if known,give name and relationship to decedent]

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

ADMINISTRATION CITATION File No. _____

SURROGATE'S COURT - _____ COUNTY

CITATION

THE PEOPLE OF THE STATE OF NEW YORK,

By the Grace of God Free and Independent,

TO

A petition having been duly filed by _____ , who is domiciled at

_____

YOU ARE HERE BY CITED TO SHOW CAUSE before the Surrogate's Court, _____

County, at _____ , New York, on _____ ,20 ____ at _____ o'clock in
the _____ noon of that day, why a decree should not be made in the estate of _____

_____

lately domiciled at _____

in the County of _____ ,New York, granting Letters of Administration upon the estate of
the decedent to _____ or to such other person as may be entitled there to.

(State any further relief requested)

_____
HON.

Dated, Attested and Sealed, _____ , 20_____ Surrogate

(Seal)

_____
Chief Clerk

Name of

Attorney for Petitioner _____ Tel.No. _____

Address of Attorney _____

Note: This citation is served upon you as required by law. You are not required to appear. If you fail to appear it will be assumed you do not object to the relief requested. You have a right to have an attorney-at-law appear for you.

SURROGATE'S COURT OF THE STATE OF NEW YORK COUNTY OF

- - - -

SURROGATE'S COURT OF THE STATE OF NEW YORK COUNTY OF

---------- X

ADMINISTRATION PROCEEDING

Estate of

a/k/a

Deceased.

AFFIDAVIT OF MAILING

NOTICE OF APPLICATION FOR

LETTERS OF ADMINISTRATION

(SCPA 1005)

File No._____

---------- X

STATE OF NEW YORK

COUNTY OF ss.:

_____ , residing at _____ New York,

being duly sworn,deposes and says that deponent is over the age of eighteen years; that on _____ , 20 _____

deponent mailed a copy of the foregoing Notice of application for Letters of administration, contained in a securely closed postpaid wrapper, directed to each of the persons named in paragraph 4(b), respectively, as follows:

whose post office address is_____

whose post office address is_____

whose post office address is_____

whose post office address is_____

whose post office address is_____

whose post office address is_____

whose post office address is_____

whose post office address is_____

by depositing the document in a letter box or other official depository under the exclusive care and custody of the United States Post Office, located at:

_____

Sworn to before me this _____ _____

day of_____ ,20_____ Signature

Notary Public

Commission Expires:

(Affix Stamp or Seal)

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SURROGATE'S COURT OF THE STATE OF NEW YORK A62

COUNTY OF

---------- X

ADMINISTRATION PROCEEDING

Estate of NOTICE TO CONSUL

GENERAL

a/k/a

Deceased. File No _____

---------- X

TO THE CONSUL GENERAL OF

AT THE CITY OF NEW YORK

PLEASE TAKE NOTICE that a petition (will be) (has been) presented to the Surrogate's Court,

County of _____ ,on _____,20 _____ , with respect to the Estate of the above-named decedent and it appears from the petition that:

a. the deceased was a subject of _____ or

b. the following distributees are nonresidents of the United States:

Names	Addresses	Citizenship
_____	_____	_____
_____	_____	_____

_____
Attorney for Petitioner

_____
Address

_____
Telephone No.

STATE OF NEW YORK

COUNTY OF _____ss.:

_____ being duly sworn,says:

That he/she resides at_____ , New York; that on the _____ ,20 _____ , he/she served a copy of the above NOTICE on the Consul General of _____ at _____ ,New York City,by mailing same to the office of the aforesaid Consul.

_____
Signature

Sworn to before me this _____
day of_____ ,20 _____

_____
Notary Public

Commission Expires: (Affix Stamp and Seal)

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At a Surrogate's Court of the State of New York Held in and for the County of _____, at _____New York on _____ ,20 _____

PRESENT:

HON. _____

Surrogate.

---------- X

ADMINISTRATION PROCEEDING

Estate of

a/k/a

DECREE APPOINTING

ADMINISTRATOR

FileNo. _____

Deceased.

---------- X

A petition having been filed by _____ praying that administration of the goods, chattels and credits of the above-named decedent be granted to _____ ; and all persons named in such petition,required to be cited,having been duly cited to show cause why such relief should not be granted or having duly waived the issuance of such citation and consented thereto; and it appearing that _____ is in all respects competent to act as administrat _____of the estate of said deceased, and a

☐ bond having been filed and approved in the amount of $ _____

☐ bond having been dispensed with

and such representative(s) otherwise having qualified therefore; now, after due deliberation,with no one appearing in opposition thereto, it is

ORDERED AND DECREED that Letters of Administration issue to _____

_____

ORDERED AND DECREED, that the authority of such representative(s) be restricted in accordance with, and that letters herein issued contain, the limitation, if any, which appears immediately below.

_____

Surrogate

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SURROGATE'S COURT OF THE STATE OF NEW YORK
COUNTY OF

---------- X

ADMINISTRATION PROCEEDING

Estate of

AFFIDAVIT OF REGULARITY

a/k/a

Deceased. File No. _____

---------- X

STATE OF NEW YORK
COUNTY OF ss.:

_____ , being duly sworn, deposes and says:

1. That he/she is the attorney for _____ ,the _____ herein.

2. That all the parties to this proceeding have been duly cited or have waived the issuance and service of a citation herein and consented to the entry of a decree or order in the following manner and form:

a. By service of a copy of the citation issued herein upon the following persons in the manner prescribed by SCPA 307(1), as more fully appears by the proof of service thereof, made in the manner and form by law and filed on _____ , 20 _____.

Name	Address	Date of Service
_____	_____	_____
_____	_____	_____

b. By service pursuant to an order made herein on _____ ,20 _____ , under SCPA307(2), as more fully appears by the proof of service thereof, made in the manner prescribed by law and filed herein on _____ ,20_____.

Name	Address	Date of Service
_____	_____	_____
_____	_____	_____

(Parties who waive or consent)

c. By duly executed waivers of the issuance and service of the citation herein and a consent to the entry of a decree or order and filed herein on _____ ,20 _____ ,by:

Name	Address	Date of Service
_____	_____	_____
_____	_____	_____

3. That no notice of appearance has been filed herein, except by _____

4. That all of the persons named above are of full age and are of sound mind, excepting those herein before stated to be otherwise, and comprise all the parties, as deponent verily believes, who have any interest in this proceeding.

_____
Signature

Sworn to before me this _____
day of _____ ,20 _____

_____
Notary Public

Commission Expires: (Affix Stamp and Seal)

N.B. Where a person cited is an infant, incarcerated, a mentally ill person, a mentally retarded person, a developmentally disabled person, an alcohol abuser or for any cause is mentally incapable of adequately protecting his/her rights, it must so appear in the foregoing affidavit. The age of the infant also must be stated.

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SURROGATE'S COURT OF THE STATE OF NEW YORK COUNTY OF

---------- X

ADMINISTRATION PROCEEDING
Estate of

WAIVER OF CITATION,
RENUNCIATION AND CONSENT TO
APPOINTMENT OF ADMINISTRATOR
(INDIVIDUAL)

a/k/a

Deceased. File No. _____

---------- X

The undersigned, a distributee or creditor of the above named decedent and being of full age and sound mind hereby voluntarily appears in the Surrogate's Court of _____ County, New York and waives the issuance and service of citation in this matter, renounces all right to Letters of Administration of the above captioned estate and consents that

☐ Letters of Administration

☐ Letters of Administration with Limitations

☐ Limited Letters of Administration

be issued to _____

or any other person or persons entitled thereto without any notice whatsoever to the undersigned, and consents

☐ that a bond be dispensed with and hereby specifically release any claim I might have under any bond that may be filed

☐ that a bond in the amount of $ _____ be posted.

_____	_____	_____	_____
Date	Signature	Street Address	Relationship

_____	_____
Print Name	Town/State/Zip

STATE OF NEW YORK

COUNTY OF _____ ss.:

On _____ ,20 _____ , before me personally appeared _____

_____ to me known and known to me to be the person described in and who executed the foregoing waiver and consent and each duly acknowledged the execution thereof.

_____
Name of Attorney

_____
Address

_____
Telephone Number

_____
Notary Public
Commission Expires:
(Affix Stamp or Seal)

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SURROGATE'S COURT OF THE STATE OF NEW YORK
COUNTY OF

---------- X

ADMINISTRATION PROCEEDING
Estate of

a/k/a

Deceased.

WAIVER OF CITATION AND
CONSENT TO APPOINTMENT
OF ADMINISTRATOR
(CORPORATION)

File No. _____

---------- X

The undersigned corporation, a creditor of the above-named decedent, hereby voluntarily appears in the Surrogate's Court of _____ County, New York, and waives the issuance and service of a citation in this matter and consents that Letters of Administration be issued to _____ or any other person or persons entitled there to without any notice whatsoever to the undersigned,without furnishing a bond or other security for the faithful performance of the duties of that office and specifically releasing any claim it might have under any bond that may be furnished.

Dated: _____ ,20 _____

_____
(Name of Corporation)

By: _____
(Signature of Officer)

_____
(Type Name and Title)

STATE OF NEW YORK
COUNTY OF _____ ss.:

On _____ ,20 _____ , before me personally came

_____

to me known, who being duly sworn did say that: he resides at _____

_____ ; he is a _____

_____ of _____

_____ ,the corporation described in and which executed the foregoing waiver and consent; and that he signed the same thereto by order of the board of directors of the corporation.

_____
Name of Attorney

_____
Address

_____
Telephone Number

_____
Notary Public
Commission Expires:
(Affix Stamp or Seal)

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SURROGATE'S COURT OF THE STATE OF NEW YORK
COUNTY OF

----------X

ADMINISTRATION PROCEEDING

Estate of

a/k/a

Deceased.

----------X

Note: File proof of Service at least 3 days before return date. State clearly date, time and place of service and name of person served (Uniform Rule 207.7(c)).

AFFIDAVIT OF SERVICE
OF CITATION (Adult)

File No. _____

STATE OF NEW YORK :COUNTY OF ss.:

_____ of _____

_____ ,being duly sworn, says that I am over the age of eighteen years; that I made personal service of the citation herein dated_____ ,20 _____ on each person named below, each of whom deponent knew to be the person mentioned and described in said citation,by delivering to and leaving with each of them personally a true copy of said citation, as follows:

On _____, description, viz: sex _____, color of skin_____, color of hair_____, approximate age _____ , weight _____, height _____, at _____o'clock ___ m. on the _____day of _____, 20___ ,at _____

_____

On _____, description, viz: sex _____, color of skin_____, color of hair_____, approximate age _____ , weight _____, height _____, at _____o'clock ___ m. on the _____day of _____, 20___ ,at _____

_____

On _____, description, viz: sex _____, color of skin_____, color of hair_____, approximate age _____ , weight _____, height _____, at _____o'clock ___ m. on the _____day of _____, 20___ ,at _____

_____

That none of the aforesaid persons is in the Military Service as defined by the Act of Congress known as the "Soldiers' and Sailors' Civil Relief Act of 1940" and in the New York "Soldiers' and Sailors' Civil Relief Act."

_____

Sworn to before me this _____
day of_____ ,20 _____

_____

Notary Public

Commission Expires: (Affix Stamp and Seal)

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A68

NYC Department of Finance

SENIOR CITIZEN HOMEOWNERS' EXEMPTION
INITIAL APPLICATION

Who can apply

You may qualify for SCHE if the total combined annual income of the property's owners and their spouses is $58,399 or less and every owner is 65 or older. (If the owners are spouses or siblings, only one must be 65 or older.) With some exceptions, the property must be the primary residence of all owners.

Deadline: March 15. (If March 15 falls on a weekend or holiday, the deadline is the next business day.)

How to get help: Visit www.nyc.gov/contactpropexemptions or call 311.

How to apply

Submit all of the following:

- ☐ A completed application
- ☐ Proof of age and income, as described in "Section 5: Required Documents."
- ☐ Any other required documents listed in "Section 6: Additional Documents."

Mail your application and documents to:

New York City Department of Finance, Homeowner Tax Benefits, P.O. Box 311, Maplewood, NJ 07040-0311

Section 1: Property Information		
BOROUGH:	BLOCK:	LOT:
STREET ADDRESS:		APT #:
CITY:	STATE:	ZIP:
MAILING ADDRESS (IF DIFFERENT FROM PROPERTY ADDRESS):		
CONTACT PERSON NAME:	PHONE #:	EMAIL ADDRESS:

Type of Property:

☐ Condominium ☐ Cooperative ☐ 1- to 3-family house ☐ 4+ family house or other

If your home has four or more units, enter the % of the space that is used as your primary residence: _____%

Is any portion of your property used for commercial purposes? ☐ Yes ☐ No

If yes, enter the percentage used for commercial purposes _____%

Have you owned this property for at least 12 consecutive months?	☐ Yes ☐ No	Is the property held in a trust?	☐ Yes ☐ No
Did you receive this property through a will?	☐ Yes ☐ No	Is there a life estate on the property?	☐ Yes ☐ No

Does a child (including tenants) reside on the property and attend public school in grades pre-K to 12? ☐ Yes ☐ No

Section 2: Owner(s) Information

List all owners as recorded on deed or certificate of shares

	OWNER NAME	DATE OF BIRTH	SSN OR ITIN #	PHONE#
1				
2				
3				
4				

Check the boxes below if:

This property is your primary residence.	☐ Owner 1	☐ Owner 2	☐ Owner 3	☐ Owner 4
You are married to another owner of the property.	☐ Owner 1	☐ Owner 2	☐ Owner 3	☐ Owner 4
You are the sibling of another owner of the property.	☐ Owner 1	☐ Owner 2	☐ Owner 3	☐ Owner 4
You own additional properties.	☐ Owner 1	☐ Owner 2	☐ Owner 3	☐ Owner 4

☐ Check this box if a relative or guardian is responsible for the owner's affairs. Attach the information requested in this section for the relative or guardian.

Has anyone in your household ever served, or are they currently serving, in the U.S Armed Forces, National Guard, or Reserves? Please select any that apply:

☐ Self ☐ Spouse/Partner ☐ Child ☐ Other (write in) _____

Section 3: Income

Estimate the total combined annual income of all owners and spouses.

You must enter a number in this box ▶ $

See the instructions that are included with this application, or visit www.nyc.gov/sche for more information. You must provide income information or this may delay processing of your application.

Section 4: Certification (All owners must sign.)

I certify that all of the information provided in this application is true and correct to the best of my knowledge. I certify that I am not receiving a property tax exemption at any other property that I own, including properties outside of New York City.

I understand that this information is subject to audit and that if the Department of Finance determines that I have made false statements, I may lose my future benefits and be responsible for all applicable charges and penalties. I understand that I am required to notify the Department of Finance of any changes that might affect my eligibility for this benefit. I understand that my income is subject to verification by the Department of Finance.

Name	Signature	Date

Section 5: Required Documents	
Proof of Age Provide a copy of one of the following for each owner.	Birth certificate, passport, driver's license, government-issued photo identification card, or other federal, state, or local document displaying date of birth.
Proof of Income Provide a copy of the following for all owners and spouses for 2023.	• Federal or state income tax returns with all schedules and 1099s. If you received IRA distributions or distributions from an individual retirement annuity, you may deduct the taxable amount from your adjusted gross income for the purposes of determining your eligibility for benefits. Please include any relevant documentation, including but not limited to 1099-R forms. • Or, for owners or spouses who did not file a federal or state tax return, submit copies of all sources of income, including those listed below. ▶ Wages. ▶ Unemployment benefits. ▶ Social Security benefits. ▶ SSI payments. ▶ SSDI payments. ▶ Pension payments. ▶ IRA Earnings. ▶ Annuity Earnings. ▶ Capital gains. ▶ Business income. ▶ Workers' compensation. ▶ Rental income. ▶ Interest.

Section 6: Additional Documents (Submit all that apply.)	
If the property is held in a trust:	Submit a copy of the entire trust agreement.
If the property was willed to the owner:	Submit a copy of the last will and testament or the probate or court order.
If an owner listed on the deed is deceased:	Submit a copy of the death certificate.
If an owner is living full-time at a residential healthcare facility:	Submit an official letter from the facility which includes the cost of care for the income year provided.
If an owner owns additional properties (in NY or elsewhere):	Provide the following information for each property: address, borough-block-lot number, and any tax exemptions the property receives.
If an owner listed on the deed is living elsewhere:	Submit complete legal documentation of divorce, separation, or abandonment.
If there is a life estate on the property:	Submit a copy of the life estate.

*You must provide your Social Security number or ITIN, if you have such a number, in order to apply for this property tax exemption. We are asking for this information to make sure that our records are accurate, and that you have submitted accurate information. Our right to require this information is described in Section 11-102.1 of the Administrative Code.

If due to a disability you need an accommodation in order to apply for and receive a service or participate in a program offered by the Department of Finance, please contact the Disability Service Facilitator at www.nyc.gov/contactdofeeo or by calling 311.

Department of Finance

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DISABLED HOMEOWNERS' EXEMPTION
INITIAL APPLICATION

Who can apply

You may qualify for DHE if the total combined annual income of the property's owners and their spouses is $58,399 or less and all owners are people with disabilities. (If the owners are spouses or siblings, only one must have a disability.) With some exceptions, the property must be the primary residence of all owners.

Deadline: March 15. (If March 15 falls on a weekend or holiday, the deadline is the next business day.)

How to get help: Visit www.nyc.gov/contactpropexemptions or call 311.

How to apply

Submit all of the following:

- ☐ A completed application
- ☐ Proof of disability and income, as described in "Section 5: Required Documents."
- ☐ Any other required documents listed in "Section 6: Additional Documents."

Mail your application and documents to:

New York City Department of Finance, Homeowner Tax Benefits, P.O. Box 311, Maplewood, NJ 07040-0311

Section 1: Property Information

BOROUGH:	BLOCK:	LOT:
STREET ADDRESS:		APT #:
CITY:	STATE:	ZIP:
MAILING ADDRESS (IF DIFFERENT FROM PROPERTY ADDRESS):		
CONTACT PERSON NAME:	PHONE #:	EMAIL ADDRESS:

Type of Property:

☐ Condominium ☐ Cooperative ☐ 1- to 3-family house ☐ 4+ family house or other

If your home has four or more units, enter the % of the space that is used as your primary residence: _____%

Is any portion of your property used for commercial purposes? ☐ Yes ☐ No

If yes, enter the percentage used for commercial purposes _____%

Is the property held in a trust, including a special needs trust? ☐ Yes ☐ No	Did you receive this property through a will? ☐ Yes ☐ No
Is there a life estate on the property? ☐ Yes ☐ No	Does a child (including tenants) reside on the property and attend public school in grades pre-K to 12? ☐ Yes ☐ No
Do any on the property owners have a tenant with a disability whose lease provides them with a life interest in the property? ☐ Yes ☐ No	If yes, provide the disabled tenant's name and SSN. Name: _____ SSN: _____

Section 2: Owner(s) Information

List all owners as recorded on deed or certificate of shares

	OWNER NAME	DATE OF BIRTH	SSN OR ITIN #	PHONE#
1				
2				
3				
4				

Check the boxes below if:

You have a disability.	☐ Owner 1	☐ Owner 2	☐ Owner 3	☐ Owner 4
This property is your primary residence.	☐ Owner 1	☐ Owner 2	☐ Owner 3	☐ Owner 4
You are married to another owner of the property.	☐ Owner 1	☐ Owner 2	☐ Owner 3	☐ Owner 4
You are the sibling of another owner of the property.	☐ Owner 1	☐ Owner 2	☐ Owner 3	☐ Owner 4
You own additional properties.	☐ Owner 1	☐ Owner 2	☐ Owner 3	☐ Owner 4

☐ Check this box if a relative or guardian is responsible for the owner's affairs. Attach the information requested in this section for the relative or guardian.

Has anyone in your household ever served, or are they currently serving, in the U.S Armed Forces, National Guard, or Reserves? Please select any that apply:

☐ Self ☐ Spouse/Partner ☐ Child ☐ Other (write in) _____

Section 3: Income

Estimate the total combined annual income of all owners and spouses.

You must enter a number in this box ▶ $

See the instructions that are included with this application, or visit www.nyc.gov/dhe for more information. You must provide income information or this may delay processing of your application.

Section 4: Certification (All owners must sign.)

I certify that all of the information provided in this application is true and correct to the best of my knowledge. I certify that I am not receiving a property tax exemption at any other property that I own, including properties outside of New York City.

I understand that this information is subject to audit and that if the Department of Finance determines that I have made false statements, I may lose my future benefits and be responsible for all applicable charges and penalties. I understand that I am required to notify the Department of Finance of any changes that might affect my eligibility for this benefit. I understand that my income is subject to verification by the Department of Finance.

Name	Signature	Date

Section 5: Required Documents	
Proof of Disability Provide a copy of one of the following for each owner.	Disability award letter from the Social Security Administration, Railroad Retirement Board, or U.S. Postal Service; a certificate from the New York State Commission for the Blind; an order from the chair of the Workers' Compensation Board determining an award for compensation for permanent total disability or permanent partial disability; or a Veterans Administration letter stating that you are entitled to a veterans disability pension.
Proof of Income Provide a copy of the following for all owners and spouses for 2023.	• Federal or state income tax returns with all schedules and 1099s. If you received IRA distributions or distributions from an individual retirement annuity, you may deduct the taxable amount from your adjusted gross income for the purposes of determining your eligibility for benefits. Please include any relevant documentation, including but not limited to 1099-R forms • Or, for owners or spouses who did not file a federal or state tax return, submit copies of all sources of income, including those listed below. ▶ Wages. ▶ Unemployment benefits. ▶ Social Security benefits. ▶ SSI payments. ▶ SSDI payments. ▶ Pension payments. ▶ IRA Earnings. ▶ Annuity Earnings. ▶ Capital gains. ▶ Business income. ▶ Workers' compensation. ▶ Rental income. ▶ Interest.

Section 6: Additional Documents (Submit all that apply.)	
If the property is held in a trust, including a special needs trust:	Submit a copy of the entire trust agreement.
If the property was willed to the owner:	Submit a copy of the last will and testament or the probate or court order.
If an owner listed on the deed is deceased:	Submit a copy of the death certificate.
If an owner is living full-time at a residential healthcare facility:	Submit an official letter from the facility which includes the cost of care for the income year provided.
If an owner owns additional properties (in NY or elsewhere):	Provide the following information for each property: address, borough-block-lot number, and any tax exemptions the property receives.
If an owner listed on the deed is living elsewhere:	Submit complete legal documentation of divorce, separation, or abandonment.
If there is a life estate on the property, or if the property owner has a tenant with a disability whose lease provides them with a life interest in the property:	Submit a copy of the life estate or life interest documentation.

*You must provide your Social Security number or ITIN, if you have such a number, in order to apply for this property tax exemption. We are asking for this information to make sure that our records are accurate, and that you have submitted accurate information. Our right to require this information is described in Section 11-102.1 of the Administrative Code.

If due to a disability you need an accommodation in order to apply for and receive a service or participate in a program offered by the Department of Finance, please contact the Disability Service Facilitator at www.nyc.gov/contactdofeeo or by calling 311.

NYC Department of Finance

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Veterans Exemption
INITIAL APPLICATION INSTRUCTIONS

Please read but do not submit with your application.

Are you eligible for the Veterans Exemption?

Cooperative Owners: Please check with your managing agent to see if your property is controlled by any of the following:

- ✓ Mitchell-Lama
- ✓ Limited-Profit Housing Company
- ✓ Limited Dividend Housing Company
- ✓ Redevelopment Company
- ✓ Housing Development Fund Company

If your property is controlled by any of the entities listed above, it is NOT eligible for the Veterans Exemption.

Is the property the primary residence of one of the following? ☐ Yes ☐ No

- Veteran
- Unremarried surviving spouse of a veteran
- Parent of a soldier killed in action (Gold Star Parent)

Was the veteran honorably discharged? ☐ Yes ☐ No

If No, did the veteran receive a letter from the New York State Division of Veterans' Services (DVS) stating that the veteran now meets the character discharge criteria for benefits and services listed in the Restoration of Honor Act? ☐ Yes ☐ No

If yes, include a copy of the letter with your application.

Did the veteran serve during any of the following periods? ☐ Yes ☐ No

- World War I (April 6, 1917–November 11, 1918)
- World War II (December 7, 1941–December 31, 1946)
- Korean Conflict (June 27, 1950–January 31, 1955)
- Vietnam War (November 1, 1955–May 7, 1975)
- Persian Gulf Conflict (August 2, 1990–Present)

PLEASE NOTE: The Persian Gulf Conflict includes, but is not limited to, Operation Enduring Freedom, Operation Iraqi Freedom (Iraq invasion in 2003) and Operation New Dawn (Afghanistan), Operation Joint Forge, Operation Joint Endeavor, and Operation Joint Guard.



If you have answered **NO** to any of these questions, you **MAY NOT** be eligible for the Veterans Exemption.

Please read but do not submit with your application.

Important Information

1. Deadline – March 15:

This application and required documents must be postmarked by March 15, for benefits to begin on July 1st. If the deadline falls on a weekend or a holiday, the deadline will be the next business day.

2. Property information:

The borough, block, and lot numbers for properties can be found on the Department of Finance website at www.nyc.gov/bbl, and on your deed or property tax bill. Co-op owners can also check with their management agent for the information. Provide the date you purchased the property or co-op shares.

Properties owned by trust or life estate:

If the property has a life estate, only the individual retaining the life estate can apply. If the property is held in a trust, only the qualifying beneficiary/trustee can apply.

Properties owned by a business:

If your property is owned by a business, it is not eligible for homeowner tax benefits.

3. Primary residence:

Your primary residence is your principal and permanent place of residence. You can have only one primary residence but may own more than one property. Please provide documents if you were absent from the property due to medical reasons or institutionalization.

Percentage Used As Primary Residency

If your property contains four or more residential units, indicate the percentage used as your primary residency. Example: if the property is a four-family dwelling and you reside in one-fourth (1/4) of the property, the percentage used as primary residency is 25%. Or, if the owners reside in half of the property (two of the four units) the percentage used as primary residency is 50%.

4. Owner information:

Please complete the entire section for all owners and their spouses. If you are a foreign national, please provide your Individual Taxpayer Identification Number (ITIN).

5. Transfer of Veterans Exemption:

If you received a Veterans Exemption for a property and can show proof that your previous residence was granted the exemption, you may be able to transfer the exemption to a new property. Both residences must be located in New York State. This application must be received within 30 days of the purchase of the new property. To qualify for the following tax year, the application must be postmarked on or before March 15th. If the property is granted the exemption it will be prorated.

6. Additional Property Information:

If you own an additional property outside of New York City and are no longer receiving benefits, you must submit a letter from the county/state local assessor's office indicating there are no benefits for your other property. If you or your spouse own additional/multiple properties, please complete the "Additional Property Information" section on pages 3 and 4 of the application.

Note: If you are currently receiving the Eligible Funds exemption, which does not require primary residency, and wish to apply for the Alternative Veterans Exemption, the property must be the veteran's primary residence. If approved for the Alternative Veterans Exemption, you will lose the Eligible Funds exemption permanently.

Please read but do not submit with your application.

7. Submit your application and copies of the required documentation to:

NYC Department of Finance
P.O. Box 311
Maplewood, NJ 07040-0311

Application and all required documentation must be postmarked by **March 15**. Keep a copy of your application for your records. You will receive an acknowledgment letter from the Department of Finance when your application is received.

Required Documention

Proof of Veteran Status

- COPY of DD214 or its equivalent
- COPY of separation papers

NOTE: The DD214 (or its equivalent) and/or separation papers are REQUIRED and must be submitted with the application.

AND COPIES of one of the following, if applicable:

- Marriage certificate, if a spouse is applying for the exemption based on the military service of the veteran and the veteran is not on the deed.
- Death certificate, if you are an unremarried surviving spouse or Gold Star parent.
- Veterans Administration award letter with service connected disability rating, if the veteran is disabled.
- COPY of New York State Department of Veterans' Services Restoration of Honor letter (required only if the veteran received an other-than-honorable discharge)

To obtain DD214 and separation papers, contact:

National Personnel Records Center
1 Archives Drive
St. Louis, Missouri 63138
www.archives.gov/veterans
(866) 272-6272

NOTE: Additional documentation may be needed in the following cases:

- If the property is a cooperative, please provide a COPY of the stock certificate.
- If the property is held in a trust, please submit a COPY of the trust agreement.
- If the property was willed to an owner, please submit a COPY of last will and testament, probate or court order.

Department of Finance

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Veterans Exemption
INITIAL APPLICATION

This application and all required documents must be submitted (and postmarked) by March 15. For assistance, visit www.nyc.gov/contactpropexemptions or call 311.

PLEASE PRINT

1. PROPERTY INFORMATION

BOROUGH	BLOCK	LOT	# OF COOPERATIVE SHARES

STREET ADDRESS	APT.

CITY	STATE	ZIP

TYPE OF PROPERTY

- ☐ Condominium unit
- ☐ Cooperative
- ☐ 1–3 family dwelling
- ☐ 4+ family dwelling

DWELLINGS WITH 4 OR MORE UNITS, ENTER % OF SPACE USED FOR PRIMARY RESIDENCE: _____ %

DATE YOU PURCHASED THE PROPERTY (mm/dd/yyyy)	COOPERATIVE/CONDO MANAGEMENT INFORMATION	
	COMPANY NAME	TELEPHONE NUMBER ( ) –

IS THIS PROPERTY USED EXCLUSIVELY FOR RESIDENTIAL PURPOSES? ☐ Yes ☐ No

IF NO: PROVIDE % USED FOR NON-RESIDENTIAL PURPOSES _____%

IS THERE A LIFE ESTATE FOR THIS PROPERTY? ☐ Yes ☐ No

IS THERE A TRUST FOR THIS PROPERTY? ☐ Yes ☐ No

WAS THE PROPERTY WILLED TO YOU? ☐ Yes ☐ No

2. VETERANS INFORMATION

For Proof of Veteran Status

- COPY of DD214 or its equivalent
- COPY of separation papers

NOTE: The DD214 (or its equivalent) and/or separation papers are REQUIRED and must be submitted with the application.

AND COPIES of one of the following, if applicable:

- Marriage certificate, if a spouse is applying for the exemption based on the military service of the veteran and the veteran is not on the deed.
- Death certificate, if you are an unremarried surviving spouse or Gold Star parent.
  Veterans Administration award letter with service information connected disability rating, if the veteran is disabled.
- For a life estate, provide owner information for life estate holder and spouse.
- For a trust, provide owner information for qualifying beneficiary/trustee and submit copy of entire Trust Agreement.
- If the property is a cooperative, please provide a copy of the stock certificate.
- If the property was willed to an owner, please submit a copy of last will and testament, probate or court order.
- For owner receiving medical care in a health care facility, submit documentation from health care facility.

2. OWNER(S) INFORMATION (CONTINUED)

Owner 1

NAME (FIRST, LAST)		
DATE OF BIRTH (mm/dd/yyyy)	SOCIAL SECURITY / ITIN NUMBER	
STREET ADDRESS		APT.
CITY	STATE	ZIP
TELEPHONE NUMBER ( ) –	CELL PHONE NUMBER ( ) –	
EMAIL ADDRESS	IS THIS THE PRIMARY RESIDENCE OF OWNER 1? ☐ Yes ○ No	

Owner 2:

NAME (FIRST, LAST)		
DATE OF BIRTH (mm/dd/yyyy)	SOCIAL SECURITY / ITIN NUMBER	
STREET ADDRESS		APT.
CITY	STATE	ZIP
TELEPHONE NUMBER ( ) –	CELL PHONE NUMBER ( ) –	
EMAIL ADDRESS	IS THIS THE PRIMARY RESIDENCE OF OWNER 2? ☐ Yes ○ No	

ARE OWNERS 1 AND 2 MARRIED TO EACH OTHER? ☐ Yes ○ No

The Federal Privacy Act of 1974, as amended, requires agencies requesting Social Security Numbers to inform individuals from whom they seek this information as to whether compliance with the request is voluntary or mandatory, why the request is being made and how the information will be used. The disclosure of Social Security Numbers for applicants and income-earning occupants is mandatory and is required by section 11-102.1 of the Administrative Code of the City of New York. Such numbers disclosed on any reports or returns are requested for tax administration purposes and will be used to facilitate the processing of reports and to establish and maintain a uniform system for identifying taxpayers who are or may be subject to taxes administered and collected by the Department of Finance. Such numbers may also be disclosed as part of information contained in the taxpayer's return to another department, person, agency or entity as may be required by law, or if the applicant or income-earning occupants give written authorization to the Department of Finance.

3 ADDITIONAL OWNER(S) (CONTINUED FROM SECTION 2)

Owner 3:

NAME (FIRST, LAST)			
DATE OF BIRTH (mm/dd/yyyy)	SOCIAL SECURITY / ITIN NUMBER		
STREET ADDRESS			APT.
CITY	STATE		ZIP
TELEPHONE NUMBER ( ) –	CELL PHONE NUMBER ( ) –		
EMAIL ADDRESS	IS THIS THE PRIMARY RESIDENCE OF OWNER 3? ☐ Yes ○ No		
RELATIONSHIP TO OWNERS 1 AND 2			

4. ADDITIONAL PROPERTIES OWNED (IF ANY)

Complete the following for each additional property.
If the property is in New York City, please provide the borough, block, and lot number.

Additional property 1:

BOROUGH	BLOCK	LOT	OR	PARCEL ID
OWNER(S) NAME				
STREET ADDRESS				APT
CITY		STATE		ZIP
EXEMPTIONS RECEIVED ☐ Basic STAR/Enhanced STAR ○ Senior ○ Disabled ○ Veterans ○ Other:				
Was the property recently sold? If yes, provide sale date (mm/dd/yyyy) _____ ☐ Yes ○ No				

4. ADDITIONAL PROPERTIES OWNED (CONTINUED)

Additional property 2:

BOROUGH	BLOCK	LOT	OR	PARCEL ID

OWNER(S) NAME	

STREET ADDRESS	APT

CITY	STATE	ZIP

EXEMPTIONS RECEIVED

☐ Basic STAR/Enhanced STAR ☐ Senior ☐ Disabled ☐ Veterans ☐ Other:

Was the property recently sold?
If yes, provide sale date (mm/dd/yyyy) _____ ☐ Yes ☐ No

Note: If you are currently receiving the Eligible Funds exemption, which does not require primary residency, and wish to apply for the Alternative Veterans Exemption, the property must be the veteran's primary residence. If approved for the Alternative Veterans Exemption, you will lose the Eligible Funds exemption permanently.

5. CERTIFICATION

Please read carefully and sign the certification below. Your application is not complete if you do not sign.

I certify that all statements made on this application are true and correct to the best of my knowledge and that I have made no willful false statements of material fact. I understand that this information is subject to audit and should the Department of Finance determine that I made false statements, I may lose my future exemptions and be responsible for all applicable taxes due, accrued interest, and the maximum penalty allowable by law.

All owners must sign and date this application, regardless of where they reside.

PRINT NAME OF OWNER 1	SIGNATURE OF OWNER 1	DATE OF APPLICATION
PRINT NAME OF OWNER 2	SIGNATURE OF OWNER 2	DATE OF APPLICATION
PRINT NAME OF OWNER 3	SIGNATURE OF OWNER 3	DATE OF APPLICATION

If due to a disability you need an accommodation in order to apply for and receive a service, or to participate in a program offered by the Department of Finance, please contact the Disability Service Facilitator at nyc.gov/contactdofeeo or by calling 311.

Did you remember to…

- ☐ Check over the application to make sure all questions have been answered?
- ☐ Include copies of all required documentation?
- ☐ Sign and date the application?
- ☐ Keep a copy of the completed application for your records?

Mail your completed application and all required documentation by March 15, to:

New York City Department of Finance
P.O. Box 311
Maplewood, NJ 07040-0311

You will receive an acknowledgment when your application is received.

For assistance, visit **www.nyc.gov/contactpropexemtions** or call **311**.

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Department of Finance

Lien Sale Easy Exit Program Application

Who Can Apply

You may be eligible to be removed from the lien sale for one year if: you are the owner of the property; the property has been your primary residence for the past 12 months; you do not own any other properties in New York City; and the combined annual income of all owners (whether they reside at the property or not) and of spouses who reside at the property is no greater than $107,300.

The Lien Sale Easy Exit program only applies to certain types of property, including one- to three-family houses and residential condominiums. (Note that time spent in a hospital, nursing home, or rehabilitation facility for up to three years will not be treated as a change in residency when determining compliance with the 12-month residency requirement.)

How to Apply

Online: www.nyc.gov/liensale

By Mail: NYC Department of Finance, Lien Enforcement Unit, 66 John Street, 13th Floor, New York, NY 10038

In Person: At any Department of Finance business center (locations at www.nyc.gov/visitdof)

Deadline: May 19, 2025

Property Information

BOROUGH	BLOCK	LOT	
STREET ADDRESS			APT #
CITY	STATE		ZIP
Property Type ☐ 1- to 3-family house | ☐ Residential Condominium			

Owner(s) Information - List all owners as recorded on deed (up to 4 owners)

1

OWNER NAME	
PHONE NUMBER (CELL NUMBER PREFERRED)	EMAIL ADDRESS

What is your preferred method of communication? ☐ Phone ☐ Email ☐ Mail

By checking the box designated "phone," I expressly consent to receive recurring text messages and phone calls that may use an automatic telephone dialing system and/or a pre-recorded voice ("messages") from the City of New York regarding the Easy Exit Program or any other matter related to unpaid real property taxes, other tax liens, and interest at the phone number that I provided.

I understand that selection of the phone option is not a condition of applying for the Easy Exit Program. Message frequency may vary. Message and data rates may apply. The City is not responsible for any costs incurred due to these messages and does not guarantee their delivery. These messages do not serve as a replacement for any notifications required by law, and any failure by the City of New York to send or of the recipient to receive these messages does not affect the validity of any sale of tax liens or foreclosure proceeding in accordance with applicable law.

Has this property been your primary residence for the past 12 months? ☐ Yes ☐ No

2

OWNER NAME

PHONE NUMBER (CELL NUMBER PREFERRED)	EMAIL ADDRESS

What is your preferred method of communication? ☐ Phone ☐ Email ☐ Mail

By checking the box designated "phone," I expressly consent to receive recurring text messages and phone calls that may use an automatic telephone dialing system and/or a pre-recorded voice ("messages") from the City of New York regarding the Easy Exit Program or any other matter related to unpaid real property taxes, other tax liens, and interest at the phone number that I provided.

I understand that selection of the phone option is not a condition of applying for the Easy Exit Program. Message frequency may vary. Message and data rates may apply. The City is not responsible for any costs incurred due to these messages and does not guarantee their delivery. These messages do not serve as a replacement for any notifications required by law, and any failure by the City of New York to send or of the recipient to receive these messages does not affect the validity of any sale of tax liens or foreclosure proceeding in accordance with applicable law.

Has this property been your primary residence for the past 12 months? ☐ Yes ☐ No

3

OWNER NAME

PHONE NUMBER (CELL NUMBER PREFERRED)	EMAIL ADDRESS

What is your preferred method of communication? ☐ Phone ☐ Email ☐ Mail

By checking the box designated "phone," I expressly consent to receive recurring text messages and phone calls that may use an automatic telephone dialing system and/or a pre-recorded voice ("messages") from the City of New York regarding the Easy Exit Program or any other matter related to unpaid real property taxes, other tax liens, and interest at the phone number that I provided.

I understand that selection of the phone option is not a condition of applying for the Easy Exit Program. Message frequency may vary. Message and data rates may apply. The City is not responsible for any costs incurred due to these messages and does not guarantee their delivery. These messages do not serve as a replacement for any notifications required by law, and any failure by the City of New York to send or of the recipient to receive these messages does not affect the validity of any sale of tax liens or foreclosure proceeding in accordance with applicable law.

Has this property been your primary residence for the past 12 months? ☐ Yes ☐ No

4

OWNER NAME

PHONE NUMBER (CELL NUMBER PREFERRED)	EMAIL ADDRESS

What is your preferred method of communication? ☐ Phone ☐ Email ☐ Mail

By checking the box designated "phone," I expressly consent to receive recurring text messages and phone calls that may use an automatic telephone dialing system and/or a pre-recorded voice ("messages") from the City of New York regarding the Easy Exit Program or any other matter related to unpaid real property taxes, other tax liens, and interest at the phone number that I provided.

I understand that selection of the phone option is not a condition of applying for the Easy Exit Program. Message frequency may vary. Message and data rates may apply. The City is not responsible for any costs incurred due to these messages and does not guarantee their delivery. These messages do not serve as a replacement for any notifications required by law, and any failure by the City of New York to send or of the recipient to receive these messages does not affect the validity of any sale of tax liens or foreclosure proceeding in accordance with applicable law.

Has this property been your primary residence for the past 12 months? ☐ Yes ☐ No

Income (Required Proof of Income)

Is your annual household income $107,300 or less? ☐ YES ☐ NO

Household income is the combined annual income of all owners (whether they reside at the property or not) and of spouses who reside at the property.

Required Documentation

Provide copies of the most recent federal or state income tax returns filed by all owners (whether they reside at the property or not) and of spouses who reside at the property.

For any owners (whether they reside at the property or not) or spouses required to provide proof of their income who did not file a federal or state tax return within the last five calendar years, submit copies of all applicable sources of income, including wages, unemployment benefits, Social Security benefits, SSI payments, SSDI payments, pension payments, IRA earnings, annuity earnings, capital gains, business income, workers' compensation, rental income, and interest.

If a property owner has been hospitalized or admitted to a nursing home or rehabilitation facility, please submit an official letter from the hospital or facility indicating the time spent there. Time spent in a hospital, nursing home, or rehabilitation facility for up to three years will not be treated as a change in residency when determining compliance with the 12-month residency requirement.

Certification

I certify that all of the information provided in this application is true and correct to the best of my knowledge. I certify that the property listed above is my primary residence and that I do not own any properties in New York City, other than the property listed above. I understand that this information is subject to audit and my household income is subject to verification by the Department of Finance. If the Department of Finance determines that I have made false statements, I may lose my "Easy Exit Program" exclusion and my property may be subject to the lien sale.

Disclaimer: DOF will use the information included in this application to determine eligibility for the Lien Sale Easy Exit Program for the property referenced above. By submitting this application, the applicant acknowledges that DOF's approval of the application will not constitute an endorsement of the applicant's or any other individual's claim of ownership of the property.

_____
Owner/Applicant

_____ _____
Signature Date

Owner/Applicant must sign the above certification and submit all of the following:

- **A completed application**
- **All required documents,** as described above

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Department of Finance

Lien Sale Properties in Probate Removal Application

Who Can Apply

You may be eligible for a tax lien sale property in probate removal if the property is included in the at-risk pool for a lien sale, the owner of record with the Department of Finance has passed away, the owner of record's estate is in probate, and there is uncertainty as to the succeeding ownership of the property. If approved, the Department of Finance will remove the property from the at-risk pool of the lien sale for 24 months. If your ownership issues are resolved during this 24-month period, please notify the Department of Finance promptly.

How to Apply

By Mail: NYC Department of Finance, Lien Enforcement Unit, 66 John Street, 13th Floor, New York, NY 10038

In Person: Visit any Department of Finance business center (locations at www.nyc.gov/visitdof)

Deadline: May 19, 2025

Property Information

BOROUGH	BLOCK	LOT	
STREET ADDRESS			APT #
CITY	STATE		ZIP CODE
DECEASED OWNER NAME [FIRST-MI-LAST]			

Applicant Information

APPLICANT NAME [FIRST-MI-LAST]		
STREET ADDRESS (IF DIFFERENT FROM PROPERTY ADDRESS)		APT #
CITY	STATE	ZIP CODE
PHONE NUMBER	EMAIL ADDRESS	

Required Documentation

You must submit a copy of your valid government-issued photo ID, a copy of the deceased property owner's death certificate and will (if any exists), and a notarized affidavit swearing or affirming that the property has been the applicant's primary residence for at least one year, along with one of the following:

- A copy of a document filed in or issued by the Surrogate Court naming the applicant as a beneficiary or heir who will receive title to the property after probate
- An affidavit from the administrator or executor of the estate verifying the applicant as a beneficiary or heir who is expected to receive title to the property after probate
- An attorney's affidavit swearing or affirming the applicant's intention to file a claim in relation to the estate or a proof of such filing with the Surrogate Court
- If an applicant is not represented, they must instead indicate that they have taken material steps to file on a pro se basis or obtain representation to do so.

Certification

I certify that all of the information provided in this application is true and correct to the best of my knowledge. I understand that this information is subject to audit. If the Department of Finance determines that I have made false statements, I may lose my tax lien sale property in probate removal and the property may be subject to the lien sale.

_____
Applicant

_____ _____
Signature Date

Applicant must sign the above certification and submit all of the following:

- **A completed application**
- **All required documents,** as described above