

STATE OF NEW YORK  
COUNTY COURT

COUNTY OF ALBANY

In the Matter of the "In Rem" Delinquent Tax Lien  
Foreclosure Proceeding brought pursuant to Article  
Eleven, Title 3 of the Real Property Tax Law

by

THE COUNTY OF ALBANY, NEW YORK, TAX  
DISTRICT,

against

The Parcels of Real Property included in the LIST OF  
DELINQUENT TAXES filed on October 8, 2013  
covering the CITY OF ALBANY, Albany County

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ALBANY COUNTY COURT  
ORDER  
VACATING, NULLIFYING  
AND CANCELLING OF  
RECORD *NUNC PRO TUNC*  
BOTH FINAL JUDGMENT OF  
FORECLOSURE BY DEFAULT,  
EXECUTION AND WRIT OF  
ASSISTANCE AND DEED BY  
ASSIGNMENT GIVEN BY TAX  
DISTRICT TO ALBANY COUNTY  
LAND BANK CORPORATION  
AS TO PARCEL No. ALBANY  
5107-13-1074 (349 Orange  
Street, City of Albany)

Index No. 5107-13

RJI No. CC-17-00001

IAS Judge: Surrogate Stacy L. Petitt  
Acting Albany County Court Judge

The County of Albany, New York Tax District ("Tax District") having by its attorney Albany County Attorney DANIEL C. LYNCH (Gregory A. Rutnik, Esq., Assistant County Attorney, of counsel) moved this Court *ex parte* pursuant to this Court's inherent authority to at any time vacate its own judgments in the interest of justice and the exercise of its inherent discretion based upon the excusable mistake and/or error of a party thereto for an Order vacating, declaring null and void and canceling of record *nunc pro tunc nunc* both the Order of this Court dated February 8, 2018 and entered in the Albany County Clerk's Office on February 8, 2018 granting the Tax District Summary Final Judgment of Foreclosure by Default, Execution and Writ of Assistance in this proceeding as to the above said parcel ("Foreclosure Judgment") and the Deed by Assignment as to the above said parcel subsequently given by the Tax District to the Albany County Land Bank Corporation dated March 29, 2019 recorded in the Albany County Clerk's Office as Instrument No. R2019-6878 on April 10, 2019 ("Deed by Assignment") solely to the extent that Exhibit "A" annexed to both

said Foreclosure Judgment and Deed by Assignment include therein the abovesaid parcel "PARCEL No. ALBANY 5107-13-1074 (349 Orange Street, City of Albany)" and for such other, further and different relief as to the Court may seem just and proper,

NOW after reading and filing the Affidavit of Assistant Albany County Attorney Gregory A. Rutnik, Esq. sworn to on April 15, 2019 in support of said Motion satisfactorily establishing the excusable mistake and error of the Tax District in having obtained said Foreclosure Judgment and given said Deed by Assignment as to the abovesaid parcel in this proceeding solely to the extent that Exhibit "A" annexed to both said Foreclosure Judgment and Deed by Assignment included therein the abovesaid parcel "PARCEL No. ALBANY 5107-13-1074 (349 Orange Street, City of Albany)".and due deliberation having been had thereon, it is hereby pursuant to this Court's inherent authority to in the interests of justice and in the exercise of its inherent discretion, it is hereby

UPON said Motion by said attorney for the Tax District,

ORDERED that both the Order of this Court dated February 8, 2018 and entered in the Albany County Clerk's Office on February 8, 2018 granting the Tax District said Foreclosure Judgment in this proceeding as to the above said parcel and said Deed by Assignment as to the above said parcel subsequently given by the Tax District to the Albany County Land Bank Corporation dated March 29, 2019 recorded in the Albany County Clerk's Office as Instrument No. R2019-6878 on April 10, 2019 are hereby vacated, declared null and void and canceled of record *nunc pro tunc* solely to the extent that Exhibit "A" annexed to both said Foreclosure Judgment and Deed by Assignment include therein the abovesaid parcel "PARCEL No. ALBANY 5107-13-1074 (349 Orange Street, City of Albany)"., and it is further hereby

ORDERED that the Albany County Clerk shall and is hereby directed to make an appropriate notation of the entry of this Order upon the filed original of and the electronic Index entries with respect to both said Foreclosure Judgment and Deed by Assignment solely to the extent that Exhibit "A" annexed to both said Foreclosure Judgment and Deed by

Assignment include therein the abovesaid parcel "PARCEL No. ALBANY 5107-13-1074 (349 Orange Street, City of Albany)".

Signed this 26<sup>th</sup> day of April, 2019, at Albany, New York.

ENTER

Stacy L. Pettit  
STACY L. PETTIT, SURROGATE  
ACTING ALBANY COUNTY COURT JUDGE

S/ Stacy L. Pettit  
4-30-19 ms

**STATE OF NEW YORK  
COUNTY COURT**

In the Matter of the “In Rem” Delinquent Tax Lien  
Foreclosure Proceeding brought pursuant to Article  
Eleven, Title 3 of the Real Property Tax Law

by

THE COUNTY OF ALBANY, NEW YORK, TAX  
DISTRICT,

against

The Parcels of Real Property included in the LIST OF DELINQUENT TAXES filed on October 8, 2013 covering the CITY OF ALBANY, Albany County

**AFFIDAVIT IN SUPPORT OF  
MOTION FOR ORDER  
VACATING, NULLIFYING  
AND CANCELLING OF  
RECORD *NUNC PRO TUNC*  
BOTH FINAL JUDGMENT OF  
FORECLOSURE BY DEFAULT,  
EXECUTION AND WRIT OF  
ASSISTANCE AND DEED BY  
ASSIGNMENT GIVEN BY TAX  
DISTRICT TO ALBANY COUNTY  
LAND BANK CORPORATION  
solely to the extent that Exhibit "A"  
annexed to both said Judgment and  
Deed include therein "PARCEL No.  
ALBANY 5107-13-1074 (349 Orange  
Street, City of Albany)"**

**Index No. 5107-13**  
**RJI No. CC-17-00001**  
**IAS Judge: Surrogate Stacy L. Pettit**  
**Acting Albany County Court Judge**

STATE OF NEW YORK )  
 ) SS.:  
COUNTY OF ALBANY )

GREGORY A. RUTNIK, ESQ. being duly sworn, deposes and says:

1. I am an attorney-at-law duly admitted to practice in the State of New York employed as an Assistant County Attorney in the Office of the Albany County Attorney, attorney for the County of Albany, New York, Tax District ("Tax District"), and have in such capacity been assigned to conduct this proceeding on behalf of the Tax District.

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ALBANY COUNTY CLERK  
New York

2. I am fully familiar with the facts, pleadings and proceedings relating to this proceeding upon personal knowledge and/or upon information and belief based upon conversations I have had with persons having personal knowledge or information derived by me from records kept by the Tax District in the ordinary course of business.

3. I make this affidavit based upon said knowledge and/or information and belief in support of the relief in this proceeding hereby requested by the Tax District.

4. This is a proceeding "in rem" brought by the Tax District pursuant to Article Eleven, Title 3, of the Real Property Tax Law ("RPTL") to foreclose delinquent real property tax liens against the parcels of real property on the abovesaid List of Delinquent Taxes ("List") including the abovesaid parcel, which parcel is more fully described in Exhibit "A" annexed hereto.

5. The Tax District is hereby applying *ex parte* to this Court pursuant to its inherent authority to at any time vacate its own judgments *nunc pro tunc* in the interest of justice and the exercise of its inherent discretion based upon the excusable mistake and/or error of a party thereto for an Order vacating, rendering null and void and canceling of record *nunc pro tunc* both the Order of this Court dated February 8, 2018 and entered in the Albany County Clerk's Office on February 8, 2018 granting the Tax District Summary Final Judgment of Foreclosure by Default, Execution and Writ of Assistance in this proceeding as to the above said parcel ("Foreclosure Judgment") and Exhibit "A of the Deed by Assignment as to the above said parcel subsequently given by the Tax District to the Albany County Land Bank Corporation dated March 29, 2019 recorded in the Albany County Clerk's Office as Instrument No. R2019-6878 on April 10, 2019 ("Deed by Assignment") solely to the extent that Exhibit "A" annexed to both said Foreclosure Judgment and Deed by Assignment include therein the abovesaid parcel "PARCEL No. ALBANY 5107-13-1074 (349 Orange Street, City of Albany)".

6. It appears that as the result of a clerical error the above said parcel was mistakenly included by the Tax District in Exhibit "A" of the above said Foreclosure

Judgment as having thereby been foreclosed upon when in fact it had not and as a result erroneously included in Albany County legislative Resolution 271 for the year 2018 adopted June 16, 2018 authorizing its sale and conveyance by said Deed by Assignment given by the Tax District to the Albany County Land Bank Corporation, despite the fact said parcel was in actuality owned and continues to be owned by Green Island Tabernacle and is listed on this Court's March 7, 2019 Tax District Summary Judgment Motion calendar as having been Answered and adjourned by its owner's attorney of record to June 6, 2019.

7. Under the circumstances of said clerical error and excusable mistake having been made by it, the Tax District respectfully requests that this Court in the interests of justice and the exercise of its inherent discretion grant the herewith being submitted proposed Order vacating, rendering null and void and cancelling of record *nunc pro tunc* both said Foreclosure Judgment and Deed by Assignment solely to the extent that Exhibit "A" annexed to both said Foreclosure Judgment and Deed by Assignment include therein the abovesaid parcel "PARCEL No. ALBANY 5107-13-1074 (349 Orange Street, City of Albany)".

8. There is no person or persons whose rights will be adversely affected if the relief hereby requested by the Tax District is granted, so as to thereby entitle them to notice of this application.

9. No prior application for the relief hereby requested has been made to this or any other Court.



GREGORY A. RUTNIK, ESQ.

Sworn to before me this  
15<sup>th</sup> day of April, 2019

  
NOTARY PUBLIC – STATE OF NEW YORK

MELANIE J. BUNZEY  
Notary Public, State of New York  
Qualified in Albany County  
No. 01BU6048902  
Commission Expires Oct. 2, 2022

**LIST OF DELINQUENT TAXES**  
**FOR**  
**CITY OF ALBANY, ALBANY COUNTY**

PARCEL FORCLOSURE NO: 0001074  
FORECLOSURE PROCEEDING INDEX NO: 5107-13  
PARCEL LOCATION: 349 ORANGE ST, CITY OF ALBANY  
PARCEL TAX MAP NUMBER: 06506400030320000000  
PARCEL PROPERTY CLASS CODE: 210  
OWNER LISTED ON DELINQUENT TAX BILL: GREEN ISLAND TABERNACLE.  
REPUTED PARCEL OWNER(S): GREEN ISLAND TABERNACLE  
AS OF 10/3/2013  
MAILING ADDRESS: 353 ORANGE ST  
ALBANY, NY 12206

**DELINQUENT TAXES**

<u>YEAR</u>	<u>TYPE OF TAX</u>	<u>AMOUNT DUE</u>
2012	PROPERTY	269.15