



Town of Reading
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READING TOWN MEETING INSTRUCTIONAL MOTION FORM

Please print legibly and print exactly as you would like to present the Instructional Motion. This will become part of the permanent record of this Town Meeting and must be submitted to the Town Clerk and Moderator before Town Meeting.

Instructional Motion Number: _____ Date: April 24, 2025

Instruction to: Select Board
Board, Committee or Department

I, Steven Cool of Precinct 6 do hereby move that;

Subject: Report on Seized Property and Excess Proceeds from Property Dispositions, and Reimbursement to Affected Parties

- Within 60 days the Town of Reading shall determine and publicly report all instances, dating back 20 years, in which the Town has seized property for unpaid taxes or for any other reason, disposed of it in any manner (whether by sale or otherwise), and received funds or any other form of good value exceeding the taxes and/or other monies owed.
- The report shall detail any instances where the Town has retained such property or otherwise benefited in any manner exceeding the amounts owed, such as by utilizing it for Town purposes or redistributing it in any other form.
- The Town shall make appropriate restitution within 90 days of identifying any such case and identifying any excess, ensure that all individuals who have suffered from such practices are fairly compensated, and ensure that the practice of retaining such excess monies or value is stopped and does not occur in the future.
- In two particular outstanding cases, the Town shall drop its appeal in Mr. Peter Davenport's case and make restitution to Mr. Davenport and Mr. Mark Milley by May 31, 2025.

Background:

Recent reports have suggested that the Town of Reading has engaged in a practice known as "equity theft." Equity theft is most often when a governmental entity, often municipal, like Reading, seizes a property for unpaid taxes or other obligations, sells it, and retains the proceeds exceeding the amount owed, rather than returning the surplus funds to the original property owner. It may also be when the government somehow disposes or makes other use of the property without paying the former owner the difference between the property's fair market value and the amount owed.

Recent cases of this include a house seized from the estate of the father of Reading resident Mark Milley and sold for more than \$300,000 in excess of the amount of taxes owed. The Town kept the excess, and when Mark became aware of the seizure and sale, the Town refused to turn over the excess money to him.

Similarly, the case of Peter Davenport, a disabled individual who was evicted and homeless, living in his van for months, illustrates the devastating consequences of such actions. Peter's property was sold following the sudden death of his wife, having been "taken" for taxes years ago, which is the process by which a town forecloses.

The problem is not that the Town sold Mark's and Peter's properties to pay taxes, which it is entitled to do, but the problem is that it kept the excess, in violation of the US Constitution.

Further, in addition to the Town refusing to return the excess monies to each man, the Town says it is entitled to charge them rent for the period in which they occupied the houses, which would reduce the amount of any excess due to each and add to the unfairness and pain of the whole ordeal for both.

It isn't clear what notice Mark received (his father's estate was never probated until after the house was sold), and Peter's disability makes it difficult for him to read and understand such a notice. In any case, neither man had the ability to come up with the well over \$100,000 in taxes that would have been necessary to stop each sale.

Mark and Peter are entitled to receive the excess proceeds withheld by the Town. In Peter's case the Federal Court ruled that the Town must repay him \$219,453.52, but the Town has appealed and the arguments in the US Court of Appeals are scheduled for May 8th. In Mark's case, the amount is estimated at over \$300,000, but both parties have agreed to stay the case until the Appeals Court decides the Davenport appeal.

The judge in Peter's case said that he won based on a recent similar case before the Supreme Court, in a 9-0 decision. The Supreme Court applied the Fifth Amendment of the Constitution to the Minnesota case and found that it guarantees due process of law before a person can be deprived of their property, and mandates "just compensation" when private property is taken for public use. The fifth amendment to the US Constitution requires due process before a person can be deprived of life, liberty, or property, and includes a "just compensation" clause requiring the government to pay for private property taken for public use.

Signature: 

Town Clerk:

Seconded: _____ Vote: _____