

QUARTERLY  
**LEGAL JOURNAL**

**CONSTITUTIONALITY OF IN REM TAX LIEN SALES**

U.S. SUPREME COURT

Tyler v. Hennepin County, Minnesota, 143 S.Ct. 1369 (2023). Decided May 25, 2023. Taxpayer, Geraldine Tyler, brought an action against Hennepin County in state court alleging that the county's retention of \$25,000 in surplus proceeds from the sale of her condominium to satisfy her delinquent \$15,000 property tax bill was a taking of property without just compensation in violation of the Takings Clause of the Fifth Amendment and a violation of the Excessive Fines Clause of the Eighth Amendment. The District of Columbia and about a dozen other states, including New York, currently allow the municipalities to... **READ MORE & CASE CITE**



**TITLE COVERAGE - PERSONS IN POSSESSION**

KINGS COUNTY

321 Manhattan Avenue, LLC v. Stewart Title Insurance Co., 2023 WL 3919050 (Sup. Ct., Kings Co.). Decided June 6, 2023. Plaintiff commenced this action seeking a declaratory judgment and breach of contract damages stemming from defendant's denial of plaintiff's claim under a title policy. Plaintiff took title to the insured property at 321 Manhattan Avenue in Brooklyn by deed dated July 29, 2015. The property is situated directly to the south of the neighboring parcel at 323 Manhattan Avenue. Following the closing of title, plaintiff discovered that the southerly wall of the adjacent premises encroached approximately... **READ MORE & CASE CITE**

**CASE ON CONSTITUTIONALITY OF THE FORECLOSURE ABUSE PREVENTION**

## ACT

### QUEENS COUNTY

East Fork Funding LLC v. U.S. Bank, N.A., 2023 WL 2660645 (E.D.N.Y. Mar. 23, 2023). (Property in Queens County). Decided March 23, 2023. On December 30, 2022, Governor Kathy Hochul signed the Foreclosure Abuse Prevention Act (“FAPA”) into law. FAPA took effect immediately, but more importantly, applies retroactively to any pending foreclosure action for which a final judgment of foreclosure and sale has not been enforced. FAPA is expressly intended to overrule the 2021 Court of Appeal’s decision in Freedom Mtge. Corp. v Engel.... **READ MORE & CASE CITE**



### CASE ON CONSTITUTIONALITY OF THE FORECLOSURE ABUSE PREVENTION ACT

#### PUTNAM COUNTY

HSBC Bank USA, N.A. v. Besharat, 2023 WL 3555407 (Sup. Ct. Putnam Co.). (Property in Putnam County). Decided on May 19, 2023. This is a residential mortgage foreclosure action. The facts show that plaintiff commenced its first foreclosure action in 2013. The first action was discontinued by stipulation in 2016. Plaintiff commenced a second foreclosure action in 2018 which was dismissed without prejudice by court order dated December 21, 2020... **READ MORE & CASE CITE**



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