

Rockland County

Sale of Estate Real Property

MAY 2020



OFFICE OF THE NEW YORK STATE COMPTROLLER
Thomas P. DiNapoli, State Comptroller

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Report Highlights

Rockland County

Audit Objective

Determine whether the Acting Public Administrator disposed of estate real property in accordance with Office of Public Administrator guidelines.

Key Finding

- Estate real properties were sold without third-party appraisal.

Key Recommendation

- Engage a professional appraisal service prior to listing estate real property for sale.

County officials generally agreed with our recommendation and have initiated or indicated they planned to initiate corrective action.

Background

Six counties in New York State have a separate Office of Public Administrator (PA), authorized by the Surrogate's Court Procedure Act. For counties without a PA, such as Rockland County, the County's Surrogate's Court appoints the Chief Fiscal Officer as Acting Public Administrator.

The Rockland County Commissioner of Finance is appointed as Acting Public Administrator (Administrator) by the County Surrogate's Court to serve as administrator of an estate. One of the Administrator's duties is to liquidate assets of the estate.

Quick Facts

Number of Intestate Estates	67
Number of Estates With Assets	12
Value of the 12 Estates as of 12/31/17	\$3,046,899

Audit Period

January 1, 2013 – December 31, 2017

Sale of Estate Real Property

How Should Real Property of an Estate Be Sold?

The Surrogate's Court Procedure Act (Act) holds Public Administrators in New York State responsible for administering the estates of individuals who die intestate (without a will) and leave either no known heirs or heirs who are not qualified or willing to administer the estate. A Public Administrator may also be appointed by the Surrogate's Court to administer an estate. Acting Public Administrators appointed by the Surrogate's Courts to serve as estate fiduciaries are qualified to act in this capacity by virtue of their public office, and the performance of this service is a function of their public office. The Office of Public Administrator guidelines regarding the sale of estate real property¹ state that the PA shall determine fair market value and sell all real property or cooperative apartments at public auction or by private sale at the highest and best price available.

The County of Rockland does not have a separate PA. Therefore, the Surrogate's Court has appointed the Commissioner of Finance, the chief fiscal officer, as Acting Public Administrator (Administrator). Once appointed by the Surrogate's Court, the Administrator assumed a fiduciary responsibility to protect the estate assets, which includes maximizing the value of the estate assets. When selling estate real property, the Administrator should obtain the highest price for each estate. A real estate agent can provide information such as the sale price of other homes in the area that are also similar in size, but cannot provide an objective appraisal while representing a seller. By contrast, a licensed appraiser will value the real property objectively. Appraisers note the characteristics of the property and surrounding area, such as a view or a noisy highway nearby. They also consider the overall condition of a building, including its foundation and roof, or any renovations that may have been done.²

Estate Real Property Was Sold Without Appraisals

We reviewed and analyzed all 12 estate files with gross estate amounts listed on reports that the County filed with the New York State Office of the State Comptroller (OSC) to determine whether the estate had a house as part of its gross amount, whether the house was sold, and whether the sale amounts were reasonable. We also reviewed County records to see whether the homes were resold, when and for how much. Of the 12 estates in our sample, seven had real property that included houses. Of these seven, the Administrator sold six estate houses for about \$1.34 million (Figure 1).

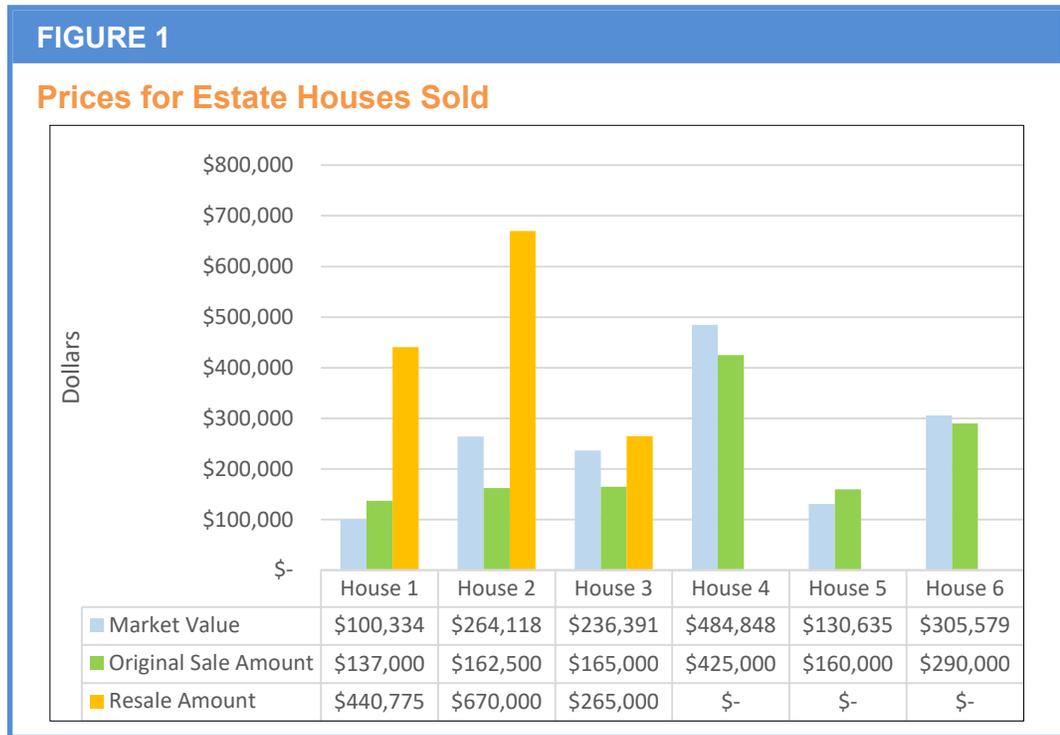
¹ Real property is defined as fixed property, principally land and buildings.

² <https://www.bls.gov/ooh/business-and-financial/appraisers-and-assessors-of-real-estate.htm>

We found that the Administrator did not always get a professional appraisal for estate houses before listing them for sale. Of the six estate houses sold, only one (house 1) had documentation that a licensed appraiser was used. There was no evidence that appraisals were performed for the other five houses sold for \$1.2 million.

The Administrator also did not maintain documentation of whether fair market value was received for the houses sold. In the absence of professional appraisals or documentation of multiple offers, we used the market value at the time of original sale³ as a basis for comparison to both the original sale price and, where applicable, the subsequent resale price.

As shown in Figure 1, all three of the six houses the Administrator sold (houses 1, 2 and 3) were subsequently resold (within one to two years) for substantially more than both the original sale price and the market value. Only two houses (houses 1 and 5) had been originally sold above their market value; the other four were originally sold below market value. For example, house 2 was originally



³ Based on official assessed value. See Appendix B, Audit Methodology and Standards, for details on how we determined the assessed value.

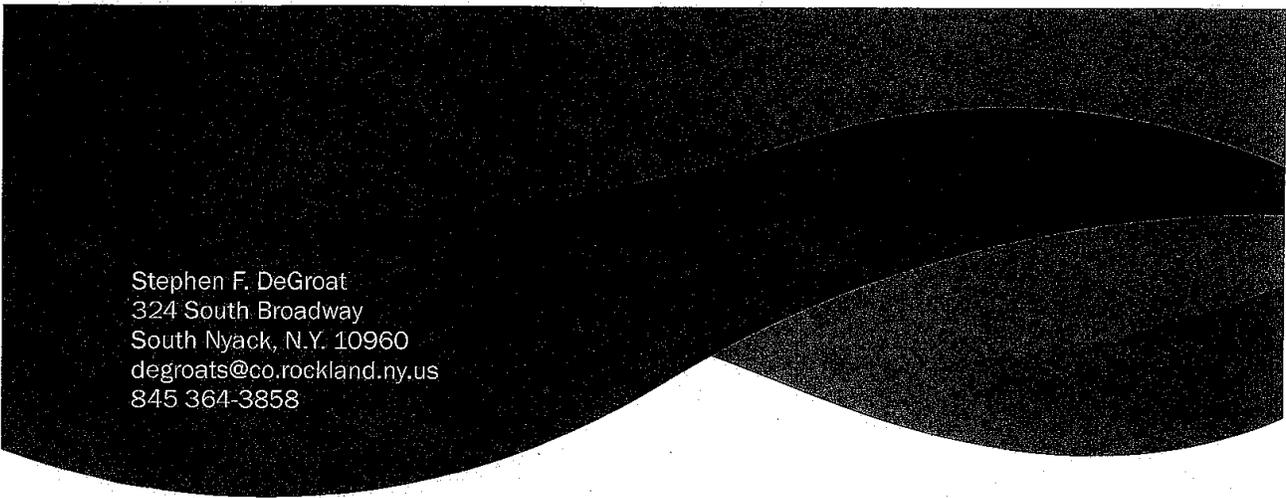
sold for \$101,618 below market value, and was subsequently resold (in less than two years) at about 300 percent more than the original sale price and about 150 percent more than market value.

The Administrator told us that the houses were not in good condition, thus decreasing their original sale value, and believed that the listing agent was able to value the houses based on the condition and comparable sales in each area. However, the Administrator did not provide any evidence to support this. With no evidence that the Administrator obtained multiple offers or bids for five of the six properties sold, there is limited assurance that these properties were sold at market value. The use of professional appraisals can substantiate the true value of estate real property so that it is sold in the best interest of the estates and brings the best price or maximum value.

What Do We Recommend?

1. The Administrator should engage the services of a professional appraiser prior to listing real property for sale.

Appendix A: Response From County Officials

A large black rectangular redaction covers the top half of the page. The contact information for Stephen F. DeGroat is visible through the redaction.

Stephen F. DeGroat
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South Nyack, N.Y. 10960
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Ms. Lisa Reynolds,
Office of the State Comptroller, 33 Airport Center Drive, New Windsor, N.Y. 12553

Dear Ms. Reynolds

Thank you for your audit report of the Public Administrator for the period January 1, 2013 through December 31, 2017. [REDACTED] the auditor from your office did a very thorough and professional job.

I will take your advice and try to get real estate appraisals when possible. Many of the properties we receive from the Surrogates Court to sell, are many years old and neglected. Many of these estates were in the hands of family members that liquidate all the assets leaving only a rundown home with either a large mortgage or Medicaid lien, which they walk away from. Most of these properties we receive after the estate is many years old.

The reason these properties sell at a much higher price, one to two years later, is because these properties are in such bad shape that they are bought only by a builder that either takes down the entire home and build a new home at a much higher price or must do major renovation.

Also note that these estate in most cases have no funds to pay for appraisals and as you know the County has nothing to do with these Estates. These properties, since they are vacant, cannot be insured for homeowner insurance which put the Public Administrator at personnel financial risk. It is our best interest to dispose of the property as soon as possible.

Thank you again for your time and consideration in this matter.

Warm regards,

Stephen F. DeGroat
Public Administrator

Appendix B: Audit Methodology and Standards

We conducted this audit pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We interviewed the County Commissioner of Finance (Acting Public Administrator) and reviewed Guidelines for the Operations of the Chief Fiscal Officers of New York State Appointed Administrators of Estates.
- We reviewed 12 of 67 estate files that had gross estate values listed in reports to OSC dated December 31, 2014 to December 31, 2017. Six of the 12 estates included houses sold; of these, two houses (labeled house 1 and house 6) were originally sold before or after our audit period (in 2012 and 2018, respectively). We included these two houses in our audit sample because those estates were listed on the 2017 reports that the County filed with the Comptroller's Office.
- We verified that the Acting Public Administrator was appointed as Public Administrator and given authorization by the Surrogate's Court to sell the houses.
- We reviewed closing statements and checks paid out and reviewed invoices in the files and check register entries to determine whether third-party appraisals were used in listing the sale price of the homes.
- We calculated the amount of real property sold to be \$1.33 million, and of those without appraisals to be \$1.2 million.
- To determine market value at the time of original sale, we contacted the New York State Department of Taxation and Finance and the Assessor's offices of the municipalities where the estate houses are located to obtain tax rolls, sale information and equalization rates for the six houses sold. We reviewed this information and computed the market value using the equalization rates and the assessed value from the tax rolls.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and provided to our office within 90 days, pursuant to Section 35 of General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make the CAP available for public review in the County Clerk's office.

Appendix C: Resources and Services

Regional Office Directory

www.osc.state.ny.us/localgov/regional_directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas

www.osc.state.ny.us/localgov/costsavings/index.htm

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems

www.osc.state.ny.us/localgov/fiscalmonitoring/index.htm

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management

www.osc.state.ny.us/localgov/pubs/listacctg.htm#lmgm

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans

www.osc.state.ny.us/localgov/planbudget/index.htm

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders

www.osc.state.ny.us/localgov/pubs/cyber-security-guide.pdf

Required Reporting – Information and resources for reports and forms that are filed with the Office of the State Comptroller

www.osc.state.ny.us/localgov/finreporting/index.htm

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers

www.osc.state.ny.us/localgov/researchpubs/index.htm

Training – Resources for local government officials on in-person and online training opportunities on a wide range of topics

www.osc.state.ny.us/localgov/academy/index.htm

Contact

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www.osc.state.ny.us/localgov/index.htm

Local Government and School Accountability Help Line: (866) 321-8503

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