



**THE TRIAL COURT OF MASSACHUSETTS
LAND COURT**

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MEMORANDUM of the CHIEF TITLE EXAMINER

To: All Registered Land Registry Districts
From: Christina T. Geaney, Chief Title Examiner
Date: January 9, 2024

**Re: Form of Instruments of Taking for Tax Delinquencies (G.L. c. 60, §§ 53, 54) and
Voluntary Acknowledgment**

This Memorandum addresses whether instruments of taking for tax delinquencies executed pursuant to G.L. c. 60, §§ 53, 54 must include a voluntary acknowledgment before they can be accepted for registration.

Instruments of taking are not included in the list of documents in which voluntary acknowledgments must appear in order to be eligible for registration as set forth in Guideline No. 1 of the Land Court Guidelines on Registered Land.

General Laws c. 60, § 105 states that “[f]orms to be used in proceedings for the collection of taxes...shall be as prescribed by the commissioner [of the Department of Revenue].” The Department of Revenue has issued an instrument of taking form for municipalities to use pursuant to G.L. c. 60, §§ 53, 54. The current form authorized by the commissioner for an instrument of taking, State Tax Form 301, contains a voluntary acknowledgment ([see https://www.mass.gov/doc/collector-form-301/download](https://www.mass.gov/doc/collector-form-301/download)). Where there is a prescribed form, the municipality is obligated to use that form. City of Boston v. Barry, 315 Mass. 572, 578-579 (1944); Bd. of Assessors of City of Bos. v. Suffolk L. Sch., 295 Mass. 489, 493-494 (1936).

The Land Court does not have a separate standard for instruments of taking but does note that the statute requires that instruments of taking follow the form promulgated by the Department of Revenue. As the Department of Revenue has promulgated a form of instrument of taking that currently requires a voluntary acknowledgment, a voluntary acknowledgment currently is required for the Registry District to accept the instrument of taking for registration.

Any questions concerning this memorandum should be directed to the Chief Title Examiner or her designee.