



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: October 28, 2025

Instruction to: Select Board  
Board, Committee or Department

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

### Excess Proceeds from Two Property Dispositions and Reimbursement to Affected Parties

- The Town shall drop its appeal in the case brought by Mr. Peter Davenport regarding the Town's seizure of his property and the Town retaining the excess proceeds of the Town's sale of that property.

*The Federal Court has already ruled that the Town must repay Mr. Davenport \$219,453.52, but the Town has appealed in the US Court of Appeals.*

- The Town shall make restitution to Mr. Davenport and to Mr. Mark Milley by December 15, 2025, for the amounts of excess proceeds retained by the Town after its sale of their properties.

### Background:

Reports have indicated that the Town of Reading has engaged in a practice known as "equity theft."

**Equity theft:** Equity theft is usually 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 of taxes or other obligations owed, rather than returning the surplus funds to the original property owner (less the Town's reasonable expenses). 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, or in some way requires the disposal of property.

**Mark Milley:** Recent cases of equity theft 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.

**Peter Davenport:** 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" by the Town for taxes years ago. "Taking" is the process by which a town forecloses for unpaid property taxes.

The key issue: 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.

Notices: Peter's disability makes it difficult for him to read and understand legal notices, and it isn't clear what notice Mark received (the Town sold Mark's father's house before his father's estate was probated).

In each case, neither man had the ability to obtain and pay the well over \$100,000 in taxes that would have been necessary to stop each sale.

Court cases: 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 arguments were scheduled for May 8, 2025 in the US Court of Appeals. In Mark's case, the amount due him is estimated at over \$300,000, but both parties (reading and Mr. Milley) have agreed to stay the case until the Court of Appeals decides the Davenport appeal.

US Supreme Court decision: 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 to the US Constitution in a Minnesota case and confirmed that it guarantees and requires due process of law 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.

**Press coverage:**

Man fighting to reclaim hundreds of thousands of dollars, despite Mass. law change

February 12, 2025

<https://www.wcvb.com/article/man-fighting-to-reclaim-hundreds-of-thousands-of-dollars-despite-mass-law-change/63758215>

Another equity theft lawsuit filed against Town of Reading, Massachusetts

February 12, 2025

<https://www.youtube.com/watch?v=z44tJB97ulY>

Massachusetts Enacts Law to Stop 'Home Equity Theft'

August 7, 2024

<https://states.aarp.org/massachusetts/home-equity-theft-law>

Signature: Steven Cool

Town Clerk:

Seconded: \_\_\_\_\_ Vote: \_\_\_\_\_