

SCAN

SHORT FORM ORDER

SUPREME COURT - STATE OF NEW YORK

Present:

HON. BRUCE D. ALPERT

Justice

TRIAL/IAS, PART 7

NASSAU COUNTY

IRONWOOD ACCEPTANCE COMPANY,

Plaintiff,

-against-

Index No. 17312/02

Motion Sequence No. 1

Motion Date: March 28, 2003

CHRISTOPHER HARRIS, ANNIE SULLIVAN, RICHARD MCINERNEY, JOSEPH MCINERNEY and THELMA HARRIS, if they be living, if they be dead, their respective heirs-at-law, next of kin, distributees, executors, administrators, trustees, devisees, legatees, assignees, lienors, creditors, and successors in interest, and generally all persons having or claiming under, by, or through CHRISTOPHER HARRIS, ANNIE SULLIVAN, RICHARD MCINERNEY, JOSEPH MCINERNEY and THELMA HARRIS, if they be dead, whether by purchase, inheritance, lien or otherwise, including any right, title or interest in and to the real property described in the complaint herein, all of who and whose names and places of residence are unknown to the plaintiff, INCORPORATED VILLAGE OF HEMPSTEAD; BMT ASSOCIATES, INC.; UNITED STATES OF AMERICA; NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE; ARTHUR KORNBLIT MD; TAX CORRECTION AGENCY INC.; TAX REDUCTION SERVICES INC.; DISTRICT COURT OF NASSAU COUNTY CENTRAL TRAFFIC COURT; FIRST UNION NATIONAL BANK, AS CUSTODIAN FOR FUNDCO.

"JOHN DOE #1" through "JOHN DOE #12", the last twelve names being fictitious and unknown to plaintiff, the persons or parties intended being the tenants, occupants, persons or corporations, if any, having or claiming an interest in or lien upon premises, described in the complaint,

Defendants.

The following papers read on this motion to compel the acceptance of a belated pleading:

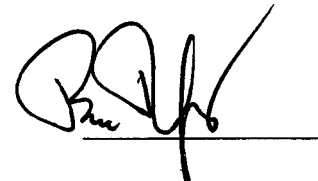
Notice of Motion	X
Affirmation in Opposition	X
Reply Affirmation	X

Upon the foregoing papers, it is ordered that this application by the Incorporated Village of Hempstead to compel the plaintiff to accept a belated answer to the former's complaint is determined as hereinafter set forth.

While public policy favors the resolution of litigation on its merits, the discretionary authority with which the Court is imbued to compel the acceptance of a belated pleading turns on a showing of a reasonable excuse for the default. (see, *Aabel v Town of Poughkeepsie*, 301 AD2d 739 [3d Dept.]) Inasmuch as the movant failed to approach the requisite showing and proffered no explanation for the default or delay, the instant application is denied. (see, *Arcata Investment, Inc. v Thomas*, 292 AD2d 408)

Lastly, the concern expressed by moving counsel regarding the potential forfeiture of various tax liens does not appear, in this Court's view, to be well taken. Only those liens held by the movant which are junior to that which is held by the plaintiff will be extinguished through foreclosure. Priority, as plaintiff's counsel aptly notes, will be determined in accordance with RPTL §§ 912 and 914.

Dated: May 13, 2003



J.S.C.

**ENTERED**

**MAY 16 2003**

**NASSAU COUNTY  
COUNTY CLERK'S OFFICE**