

**STATE OF NEW YORK
SUPREME COURT**

COUNTY OF BROOME

**NEWTEK SMALL BUSINESS FINANCE, INC., as
successor in interest to Commercial Capital
Corporation,**

Plaintiff,

**TRI-CITIES MUFFLER & BRAKE, INC.,
CINDY KENYON, PEOPLE OF THE STATE OF
NEW YORK/, STATE TAX COMMISSION,
and**

**"JOHN DOE", said name being fictitious and intended
to include any and all parties having an interest in the
Mortgaged Premises and not otherwise identified above,**

Defendants.

**NOTICE OF SALE IN A
NON-JUDICIAL
FORECLOSURE ACTION**

Index No.: 2005-875

PLEASE TAKE NOTICE, pursuant to Notice of Intention to Foreclose pursuant to RPAPL § 1402(2) in the above-entitled foreclosure action dated April 27, 2005 and entered on May 9, 2005 in the Broome County Clerk's Office, I, the auctioneer retained by Plaintiff, will sell one (1) parcel of the property identified in the attached Schedule A, at public auction at **12:00 p.m. on Thursday, October 27, 2005 at 1911 East Main Street, Endicott, New York ("Mortgaged Premises")**.

Tri-Cities Muffler & Brake, Inc. is the record owner of the Mortgaged Premises and borrower/mortgagor of the Plaintiff. The subject mortgage is dated January 29, 1999 and was recorded with the Broome County Clerk's Office on January 29, 1999, in Deed Book 2538 of Mortgages at Page No. 318.

Cindy Kenyon has been made a defendant to this nonjudicial foreclosure action by virtue of a recorded judgment in her favor and against the Gentiles, in the amount of \$1,312.00, plus penalties, costs and interest, docketed in the Broome County Clerk's Office on June 20, 2001, in Deed Book 30 and Page No. 295.

The People of the State of New York/State Tax Commission ("State Tax Commission"), has been made a defendant in this action by virtue of a three (3) tax warrants in its favor and against Defendant Tri-Cities. The first tax warrant was in the amount of \$2,425.96, plus penalties, costs and interest, docketed in the Broome County Clerk's Office on April 20, 2004, in Deed Book 49 and Page No. 941. The second tax warrant was in the amount \$4,746.91, plus penalties, costs and interest, docketed in the Broome County Clerk's Office on August 19, 2004, in Deed Book 51 and Page No. 966. The third tax warrant was in the amount of \$4,213.12, plus penalties, costs and interest, docketed in the Broome County Clerk's Office on August 19, 2004, in Deed Book 52 and Page No. 765.

As of February 3, 2005, the principal balance was due and owing in the amount of \$229,611.72, together with interest from December 9, 2004 to February 3, 2005 in the amount of \$2,769.18. Interest continues to accrue at the rate of \$50.33 per day. In addition, all sums due under the mortgage, and sums advanced by the Plaintiff which are recoverable pursuant to the terms of the mortgage, including the costs of sale, reasonable attorney's fees and disbursements, all as of the time of the first publication of this notice.

In addition, upon information and belief, Tri-Cities has defaulted on its obligations to pay, when due, taxes and impositions attributable to the Mortgaged Premises by failing to pay the 2004 and 2005 County of Broome tax bill.

The sale shall be subject to all covenants, easements and restrictions of record affecting said premises, together with the fixtures attached to or used in connection with said premises and appurtenant rights and interests.

The premises are also known as 1911 East Main Street, Endicott, New York.

The premises are being sold subject to the terms of the Notice of Intention to Foreclose and the Terms of Sale.

RIGHT TO REDEEM

The record property owner has the right up to and including the time of sale to redeem the Mortgaged Premises upon payment to the Plaintiff of all sums due.

DATED: Newark, New York 14513-0508
September 21, 2005

S/ _____
John Reynolds, CAI, Auctioneer