

Pushback: City must halt ‘equity theft’ in works now

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April 18, 2023

One year ago, I wrote a Pushback column about “home equity theft.” My neighbors, Joan Marie Jackson and Mitch Speight had almost lost their home — assessed at the time at \$275,100 — because of a property tax debt of \$35,621, plus interest and collection costs of \$20,107. If Greenfield had taken title to their property and sold it at its assessed value, Mitch and Joan would have lost \$219,372 in home equity. They managed to pay off every penny owed, but they stood to lose more than six times the actual taxes owed because Massachusetts law allows municipalities who take title to a property to keep all the equity regardless of how small the debt.

A lot has happened since my 2022 column. Seven days from now, the U.S. Supreme Court will hear opening arguments in a home equity theft lawsuit from Minnesota, brought by a 94-year-old owner who lost her condominium when a county took title to her property, and sold it for a \$25,000 profit. Her attorneys from the Pacific Legal Foundation state in their brief: “Under no circumstances can government have an unbounded ability to confiscate entire properties of any size for even the most minimal tax debts.”

The principle that debt collection should not exceed the debt has been traced back more than 400 years of case law to a 1595 case in which it was found unlawful for a sheriff to sell five oxen worth £5 each to satisfy a £2 debt.

Twelve states, and the District of Columbia, still “confiscate” excess home equity through a tax title process. Massachusetts is shamefully one such state. In November of 2022, the Greenfield City Council and the mayor publicly wrote to support state bills now pending on Beacon Hill to end home equity theft: S. 921 sponsored by state Senators Jo Comerford, and Paul Mark; H. 2937 sponsored by state Representatives Jeff Roy and Natalie Blais; S. 1876 sponsored by Senator Mark Montigny and Rep. Susannah Whippis. A SCOTUS decision is expected by June.

Last February, I filed a public records request with the city for auction sales for fiscal years 2020-2022. Greenfield sold seven properties in 2020, and one property in 2021. In

these two years, Greenfield made a profit of \$400,238 from tax title auctions. The city also has 22 “active” properties from 2020/2021 that were listed as owing a total of \$85,634 in taxes and fees. No auctions took place in 2022.

A Pacific Legal Foundation study nationally found that “Home equity theft is robbing thousands of people of their homes and all the equity they’ve built. Localities and private investors foreclosed on and sold at least 8,950 homes from 2014 to 2021 ... For the 6,200 homes without missing data, we found that homeowners lost more than \$860 million in wealth based on their market value, above what they owed in tax debt.” There were 315 homes sold in Massachusetts, with a loss of home equity of \$48.82 million.

Twenty-five “friend of the court” briefs were filed from the left and the right in support of the home equity theft case before the Supreme Court: from Public Citizen to the Cato Institute; from the ACLU to the U.S. Chamber of Commerce. If the SCOTUS rules home equity seizure is unconstitutional, every state with a law allowing home equity theft will have to repeal it. Every property owner who lost equity should receive restitution from the local government that took it.

Six days ago, the Greenfield tax collector bought a full page ad in The Recorder listing 61 properties, 478 acres of land, that will be “taken” if back taxes — some as little as \$44 — are not paid up by May 1. This list was published five months after the tax collector’s boss, the mayor of Greenfield, sent a letter to our state legislative delegation stating: “We believe we are a model of how to fairly treat our delinquent taxpayers ... We do not seek to collect from homeowners any equity that goes beyond taxes due.”

Under state law (Chapter 60, s. 87) Greenfield’s City Council can adopt a local ordinance directing the tax collector not to use the tax title process to collect unpaid taxes. The group Housing Greenfield has written to the mayor and City Council urging such an ordinance be passed.

We should stop home equity theft before the U.S. Supreme Court forces us to do it.