No. 25-95

IN THE

Supreme Court of the United States

MICHAEL PUNG, Personal Representative of the Estate of Timothy Scott Pung,

Petitioner,

v.

ISABELLA COUNTY, MICHIGAN,

Respondent.

On Writ of Certiorari To the United States Court of Appeals For the Sixth Circuit

BRIEF OF THE LOCAL GOVERNMENT LEGAL CENTER, NATIONAL ASSOCIATION OF COUNTIES, NATIONAL LEAGUE OF CITIES, INTERNATIONAL MUNICIPAL LAWYERS ASSOCIATION, GOVERNMENT FINANCE OFFICERS ASSOCIATION, AND INTERNATIONAL CITY/COUNTY MANAGEMENT ASSOCIATION AS *AMICI CURIAE* IN SUPPORT OF RESPONDENT

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INTEREST OF *AMICI CURIAE*[1]

The Local Government Legal Center ("LGLC") is a coalition of government organizations formed in 2023 to provide education to local governments regarding the Supreme Court and its impact on local governments and officials and to advocate for local government positions at the Supreme Court in appropriate cases. The National Association of Counties, the National League of Cities, and the International Municipal Lawyers Association are the founding members of the LGLC. The Government Finance Officers Association and the International City/County Management Association are associate members of the LGLC.

The National Association of Counties ("NACo") is the only national organization that represents county governments in the United States. Founded in 1935, NACo provides essential services to the nation's 3,069 counties through advocacy, education, and research.

The National League of Cities ("NLC"), founded in 1924, is the oldest and largest organization representing U.S. municipal governments. NLC works to strengthen local leadership, influence federal policy, and drive innovative solutions. In partnership with 49 state municipal leagues, NLC advocates for over 19,000 cities, towns, and villages where more than 218 million Americans live.

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[1] Pursuant to Supreme Court Rule 37.6, *amici curiae* state that no counsel for any party authored this brief in whole or in part and no entity or person, other than *amici curiae*, their members, or their counsel, made any monetary contribution intended to fund the preparation or submission of this brief.

The International Municipal Lawyers Association ("IMLA") is the nation's largest organization devoted solely to local government law. Founded in 1935, IMLA is a nonpartisan, nonprofit, professional association of counsel encompassing more than 2,500 local government entities (including cities, counties, and subdivisions thereof), represented through their chief legal officers, state municipal leagues, and individual attorneys. IMLA advocates for the responsible development of municipal law and presents the collective viewpoint of local governments around the country in lawsuits before the United States Supreme Court, federal Courts of Appeal, and state supreme and appellate courts in cases that raise issues of concern to its members.

The Government Finance Officers Association ("GFOA") is the professional association of state, provincial, and local finance officers in the United States and Canada. GFOA has served the public finance profession since 1906 and continues to provide leadership to government-finance professionals through research, education, and the identification and promotion of best practices. Its more than 30,000 members are dedicated to the sound management of government financial resources.

The International City/County Management Association ("ICMA") is a nonprofit professional association of more than 13,500 appointed chief executives, assistants, and local government leaders serving cities, counties, towns, and regional entities. ICMA's mission is to create excellence in local governance by advocating and developing the professional management of local governments throughout the world.

State and local governments depend on the regular enforcement of property tax obligations to maintain the revenue base for the critical services they provide. Around the country, localities have adopted a variety of protections to provide procedural fairness to tax obligors and maximize the value recognized in tax sales; there is no endemic problem in tax foreclosure systems that requires a "one-size-fits-all" constitutional fix. Petitioner's broad-based theories, if applied wholesale to taxing jurisdictions nationwide, would undermine the ability of local officials to secure and collect taxes, impeding their ability to provide vital services to their communities. *Amici* submit this brief to aid the Court's understanding of how local tax foreclosure systems operate in practice and to offer considerations, based on IMLA members' experience across jurisdictions, that will be relevant to the Court's resolution of this case.

SUMMARY OF ARGUMENT

Property taxes are critical to local governance. They provide the substantial majority of local funding for essential services like public schools, police and emergency response, sanitation, and maintenance of roads and community facilities. The collection of property taxes is accordingly a core responsibility of local governments. Localities, like homeowners, prefer to resolve tax debts without a public sale: stability strengthens local communities along with the tax base. But tax sales are a critical measure of last resort to support compliance with local tax rules, and to support in turn all the services that local governments provide.

Across the country, a variety of procedural protections exist to help homeowners avoid public tax sales altogether and to ensure that properties are sold, if they are sold at all, for amounts that reflect their fair market value. The protections are designed to ensure that tax obligors are fairly treated every step of the way, providing homeowners with notice, time, and mechanisms to avoid a public sale, including redemption and other ways to retain their property. Petitioner's contention that tax obligors have a constitutionally protected interest in the value that could be obtained under different conditions ignores the realities inherent to a public sale, where localities lack the rights of access and improvement that contribute to the value that can be realized in a private sale. Public sales are structured to maximize the value that can be generated under the circumstances—but those circumstances are necessarily different from what a private sale entails.

A judicial ruling that the output of a public sale invariably does *not* reflect fair value for a property, regardless of the many protections afforded to homeowners under diverse enforcement mechanisms across the nation, would throw local tax systems into disarray. Jurisdictions around the country use a variety of processes to avoid the fairness concerns petitioner raises in this case, yet petitioner's theory would require courts everywhere to disregard the price produced by a procedurally fair tax foreclosure process and to substitute a judicially determined retail value. Requiring localities to remit to tax obligors the value that could have been generated in a private sale would deliver a windfall to tax obligors who declined to initiate a private sale themselves. Such a result would be particularly unjust inasmuch as the locality does not itself receive the proceeds from a private sale, meaning the payment would have to come from revenue generated from the tax obligor's tax-paying neighbors. That is not a result required by the Takings Clause.

The Excessive Fines Clause also is not implicated in this case. The Excessive Fines Clause concerns punishment, not the remedial collection of public revenue. And tax foreclosure is very much remedial: The process is directed at the nonpayment of a financial obligation, not the redress of culpable conduct. It provides the debtor with opportunities for cure and redemption, unlike punishment schemes. When the sale produces residual value, that value is returned to the debtor. If the system does not work as designed in a particular instance, problems can be addressed through other measures, including the Due Process Clause. But a tax system is not punitive as a rule simply because it permits enforcement through foreclosure of the taxed property.

ARGUMENT

I. Local governments depend on property tax enforcement to fund essential services and maintain fiscal equity.

A. Property taxes are a principal source of revenue used to finance key public services like public schools, police and fire protection, sanitation, and maintenance of roads and public facilities.[2] In fiscal year 2022, for example, property taxes accounted for 70.2% of local tax collections and 27.4% of total state and local tax collections in the United States, more than any other single source of tax revenue. Andrey Yushkov, *Property Taxes by State and County, 2025*, Tax Found. (2025) https://taxfoundation.org/data/all/state/property-taxes-by-state-county/; U.S. Census Bureau, *Annual State and Local Government Finances Summary: 2021*, at 1–2 (reporting that taxes were 51.6% of state and local general revenue in 2021, 30% of which came from property taxes); *see also, e.g.*, *IMLA Survey* 33a–34a (W.Va.) (reflecting that school boards receive 66.3% of property taxes collected).[3]

B. Because property tax revenue is such a significant component of municipal budgets, local governments treat property tax enforcement as a routine operational responsibility. When taxes go unpaid, there is no corresponding reduction in the

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[2] *See* Rita Jefferson & Galen Hendricks, *How Local Governments Raise Revenue – And What It Means For Tax Equity*, Inst. Taxation & Econ. Pol'y (Dec. 5, 2024), https://itep.org/how-local-governments-raise-revenue-2024/.

[3] IMLA conducted a member survey to collect descriptive information about local tax foreclosure administration across jurisdictions, including owner "off-ramps," marketing and inspection constraints, auction formats, and post-sale title and possession issues. Unless otherwise noted, citations of "*IMLA Survey*" refer to Int'l Mun. Laws Ass'n, Survey of Local Tax Foreclosure Practices (Dec. 2025) (responses from local government attorneys and officials; cited responses attached as Appendix A; all responses on file with counsel). Citations referring to particular jurisdictions refer to the named survey responses (Appendix A).

demands for community services. The budgetary pressure is instead absorbed through deferred maintenance, reduced service levels, or redistributed burdens on compliant taxpayers. *See United States v. Commodities Trading Corp.*, 339 U.S. 121, 123 (1950); *IMLA Survey* 33a–34a (W.Va.) (describing delinquent property tax enforcement as "a critical mechanism for counties to ensure revenue collection for public services like schools, when property owners fail to pay their taxes").

The consequences of nonpayment, if left unchecked, can snowball. When nonpayment shifts costs to the public, it distorts the incentive to comply with property tax requirements. That is why public finance analysis treats tax compliance as a collective action problem: when public services are provided broadly, nonpayment shifts costs to the rest of the tax base and weakens incentives for future compliance. *See, e.g.*, Michael Chirico et al., *Deterring Property Tax Delinquency in Philadelphia: An Experimental Evaluation of Nudge Strategies*, Nat'l Bureau of Econ. Rsch., Working Paper No. 23243, at 1–4 (Mar. 2017), https://www.nber.org/system/files/working_papers/w23243/w23243.pdf ("[F]ailure to collect the property tax on time creates budget uncertainty at best and budget deficits at worst.").

The "just compensation" framework captures the same institutional concept. What is "just" must account for both the owner and "the public that must pay the bill." *Commodities Trading*, 339 U.S. at 123. In the property tax context, that "public" consists of the residents and taxpayers who continue funding shared services even when particular owners do not.

If core services must continue to be provided, the system necessarily requires an enforcement mechanism that preserves equitable funding.

C. To head off the consequences of property tax nonpayment, states have long treated foreclosure and public sale as a necessary collection backstop—one that must operate at scale, through standardized procedures, and within the legal constraints that attend any forced transfer of property rights. *See Tyler v. Hennepin Cnty.*, 598 U.S. 631, 637–38 (2023).

Under those constraints, the auction price is the appropriate measure of value. In the ordinary market, a seller can access and prepare a property; make improvements; permit showings and inspections; provide disclosures; negotiate warranties or price adjustments; and time the offering of a property to market conditions. Tax foreclosure authorities generally cannot replicate those conditions. Foreclosure sales occur under statutory procedures and practical constraints grounded in property law that shape the information available to bidders and the risks bidders must price. *See BFP v. Resol. Tr. Corp.*, 511 U.S. 531, 548–49 (1994).

First, foreclosure sales typically proceed on an "as-is" basis with limited inspections. Until title and possession change hands, the owner's right to exclude generally remains operative. Local officials typically cannot authorize entry for themselves or prospective bidders without the owner's consent. As a result, tax foreclosure sales frequently proceed with limited information and limited opportunities for bidders to conduct interior inspections.

IMLA's survey of member jurisdictions confirms that these access and inspection limits are common across local tax foreclosure systems. In Middletown, Connecticut, bidders cannot inspect tax foreclosed properties before sale. *IMLA Survey* 26a. In Charleston, South Carolina, bidders have no inspection access unless the owner allows entry. *IMLA Survey* 24a. In Philadelphia, bidders are unable to inspect tax foreclosed properties before sale. *IMLA Survey* 10a. Other jurisdictions described inspection access, at most, as exterior observation from a public right of way, rather than interior access or retail-style showings. *IMLA Survey* 21a (City of Rochester, N.Y.). Some respondents described the absence of any statutory right to inspect in the tax foreclosure setting. *IMLA Survey* 19a (City of Hampton, Va.).

In addition to uncertainty surrounding a property's physical condition, tax foreclosure auctions commonly allocate legal and transactional risks to bidders. Many jurisdictions sell property "as is" without customary warranties or negotiated price adjustments. Charleston's respondent emphasized that buyers often must undertake additional legal work to obtain clear title, a cost rational bidders incorporate into their offers. *IMLA Survey* 23a (City of Charleston, S.C.).

Those constraints do not "artificially" depress value, as petitioner claims. Pet. i (referring to "the artificially depressed auction sale price"). They are inherent to a sale with informational asymmetry not characteristic of a private sale. When potential purchasers have less information available to them than they would with a right of entry and inspection, they must price the resulting additional risk into their bids. Likewise with the absence of the familiar contingencies (inspection periods, repair credits, warranties) that often support higher offers in private transactions. Rational bidders respond by incorporating a margin to account for unknown interior conditions, potential occupancy issues, and the expected costs of obtaining possession after sale. *See, e.g.*, Fed. Hous. Fin. Agency, *A Primer on Price Discount of REO Properties* 2–3 (Sept. 17, 2012) (describing typical distressed-sale discounts).

Given these factors, comparisons between an auction price and a later resale price are misleading. Post-sale purchasers can invest capital and labor to make properties habitable, code-compliant, and marketable; they may also resolve title defects and other legal uncertainties that suppress auction bids. *See, e.g.*, *id.* A higher subsequent resale price therefore often reflects value added (and risk removed) after the tax sale, rather than a defect in the sale itself.

IMLA's survey evidence aligns with that dynamic. One county respondent reported that "about [half] of the properties purchased at a tax sale and not redeemed are improved or sold to another party for their use." *IMLA Survey* 3a (Delaware Cnty., Ind.). Where post sale legal steps are required—such as quiet-title litigation—those steps themselves can materially increase resale value by converting a risky distressed asset into a marketable one. *IMLA Survey* 23a–24a (City of Charleston, S.C.). A later resale price therefore does not, without more, establish that the original auction was constitutionally defective.

D. In a properly designed tax foreclosure system, local governments benefit from competitive sales. A higher sale price increases the likelihood that all delinquent taxes, statutory interest, enforcement expenses, and other public liens (such as unpaid utility charges or demolition assessments, where applicable) can be satisfied from the proceeds. *See Tyler*, 598 U.S. at 637–38 (recognizing the State's ability to impose interest and fees and to sell property to recover what is owed). In contrast, a poorly attended auction that does not result in a sale can add material administrative costs through re-noticing and re-running auctions, as well as operational burdens of managing the property.

Survey responses reflect that many jurisdictions, within statutory constraints, use modern methods to expand participation and strengthen competition in public sales. For example, Fairfax County reported that it conducts tax sales via online bidding; that bidder participation and bid prices proved better under that model; and that it opens auctions for multiple days while providing advance notice to an email list of interested bidders, along with newspaper publications. *IMLA Survey* 15a–17a (Fairfax Cnty., Va.). Fairfax also reports a reasonableness check: the sale terms permit the attorney conducting the sale to call "no sale" when bids are not reasonable under the circumstances. *Id.*

St. Louis County, Minnesota, similarly describes its initial sale process as an unrestricted public online auction available worldwide, adopted because the

County determined that online sales increase ease and fairness by reaching the greatest number of potential bidders. *IMLA Survey* 6a–8a (St. Louis Cnty., Minn.). The County describes a layered outreach designed to ensure that bidders learn of sale opportunities through multiple channels. *Id.* Minnesota's statutory public sale provisions promote broad notice and participation by requiring publication of notice in newspapers, websites, and other forums that serve diverse communities in the county where the property is located at least thirty days before the sale commences. Minn. Stat. § 282.005, subd. 4.

These measures are consistent with the institutional reality that local tax collection offices are not indifferent to price. Local officials operate within a framework that does not include all the tools available to a retail seller, but they still have strong incentives to maximize participation and ensure that sales are transparent and competitive.

A constitutional rule requiring local governments to pay owners the difference between a *post hoc* "retail" valuation and the proceeds of a properly conducted foreclosure auction would destabilize tax enforcement nationwide. It would force taxing authorities who lack the legal ability to deliver retail market conditions to litigate valuation in a large class of routine collection cases, siphoning scarce public resources away from core services. The predictable result would be higher collection costs and increased fiscal pressure on compliant taxpayers—the same public that must fund local services and "pay the bill." *Commodities Trading*, 339 U.S. at 123.

Such a rule would also create a significant practical problem for local governments and, ultimately, for courts: it would require determining the "fair market value" of a property in the first instance. This would require determining *when* the property should be valued, as market conditions can fluctuate significantly over time, and different valuation dates may produce materially different results. External factors, such as stock market changes or economic recessions, may temporarily inflate or deflate a "market value," and it would be necessary to determine which party must bear the risk of those fluctuations. And it would require determining *how* to assess that value using counterfactual assumptions about the conditions of the sale, likely necessitating litigation and a "battle of the experts" in every dispute over the proper value. Creating a constitutional rule that a tax obligor must be compensated based on a value that is, in reality, an ever-moving target would be unworkable for both tax authorities and for courts.

II. State and local tax administrators employ a variety of enforcement mechanisms that are structured to provide a fair value.

A. *Tyler v. Hennepin County* reaffirmed the constitutional baseline for tax collection sales: States may seize and sell property to recover delinquent taxes and lawful charges, but they may not retain value beyond what they are owed. 598 U.S. at 637–42. The judgment below applies that rule by awarding petitioner the surplus proceeds generated by the tax foreclosure sale (sale price minus the tax debt and authorized costs), while rejecting his request for an additional award measured by a distinct "fair market value." Pet. App. 11a–12a, 43a–44a. Petitioner's challenge to that judgment would require courts to disregard the price produced by a properly conducted foreclosure auction and to substitute a judicially determined "retail" valuation that presumes conditions the foreclosure process does not—and cannot—provide. *See id.*; *see also BFP*, 511 U.S. at 548.[4]

No court has ever accepted that theory, and this Court should not do so now. Foreclosure "redefin[es] the market in which the property is offered for sale," such that "normal free-market rules of exchange are replaced by the far more restrictive rules governing forced sales." *BFP,* 511 U.S. at 548. For that reason, courts have long has focused on sale integrity—i.e., whether the process is free from "fraud or unfairness"—and have not treated "inadequacy of the price," standing alone, as a basis for invalidating a properly conducted tax sale. *Slater v. Maxwell*, 73 U.S. (6 Wall.) 268, 273, 276 (1867). *See, e.g.*, *Freed v. Thomas*, 81 F.4th 655, 659 (6th Cir. 2023) ("[T]he best evidence of a foreclosed property's value is the property's sales price, not what it was worth before

[4] *BFP* addressed mortgage foreclosure and the Bankruptcy Code's "reasonably equivalent value" standard, but its recognition that foreclosure "redefines the market" and makes ordinary "fair market value" inapposite explains why, for distressed property sold under statutory constraints, the fairly conducted auction price is the best evidence of value under those constraints. *See* 511 U.S. at 537–39, 548–49.

the foreclosure."); *Bowles v. Sabree*, 121 F.4th 539, 548, 551 (6th Cir. 2024) (quoting *Freed*, 81 F.4th at 659). The difference between the value that might have been realized through a hypothetical retail sale and the value that was realized in fact through a public sale is not "taken" from a homeowner—the actual sale reflects the property's value as it actually existed at the time of the transaction, under the conditions that applied to the sale.

B. Critically, the homeowner has the opportunity to control those conditions. Homeowners can satisfy a tax debt before foreclosure is even initiated. And when localities must resort to foreclosure to support tax enforcement, fairness is built into the process in a number of ways.

For one, before foreclosure or tax sale proceedings commence, tax authorities are typically required to act pursuant to statutory processes and, in many states, obtain authorization from a governing board or court, underscoring that property disposition occurs only through layered governmental approval rather than unilateral action. In California, for example, while the county tax collector administers the tax sale process, the county board of supervisors must first authorize the sale of tax defaulted property, and the tax collector acts pursuant to that authorization rather than independent discretion. Cal. Rev. & Tax. Code §§ 3694, 3699. And in Illinois, tax authorities may not foreclose on tax delinquent property without judicial oversight and statutory approvals. *See* 35 ILCS 200/21-75; Ill. Const. art. IX § 8(a).

For another, foreclosure systems provide owners with multiple opportunities to protect their equity before a forced sale. These procedures are designed to provide notice, time, and lawful mechanisms for cure before title is transferred and a sale occurs. *See Tyler*, 598 U.S. at 637–38; *see also Jones v. Flowers*, 547 U.S. 220, 226–39 (2006); *Mennonite Bd. of Missions v. Adams*, 462 U.S. 791, 798–800 (1983). Before title is extinguished, owners receive notice, have opportunities to redeem, and may avoid foreclosure by paying in full, entering payment plans, or selling the property through ordinary channels. And in practice, many jurisdictions report that most delinquent properties never reach auction. *See, e.g., IMLA Survey* 14a (Municipality of Anchorage, Alaska reports that "the vast majority" of foreclosure suits do not proceed to sale).

Michigan's General Property Tax Act illustrates the basic structure. Unpaid taxes become "delinquent" and, if still unpaid, the property is "forfeited," enabling the county to petition for foreclosure; the Act then requires notices and hearings before a court may enter a foreclosure judgment.[5] Mich. Comp. Laws §§ 211.78a(2),

[5] Although Michigan's statutory structure includes a forfeiture stage, forfeiture is not a feature of all state tax-foreclosure systems, and forfeiture and non-forfeiture regimes are not interchangeable with respect to the pre-sale conditions that can affect auction outcomes. In forfeiture jurisdictions, where a state may have possession of the property in advance of sale, prospective buyers may have an opportunity for pre-sale inspection, which can affect the pricing of the sale. Some

211.78g(1), 211.78b, 211.78i–78k. Up to the point title vests, the owner has an "off-ramp": the taxpayer may redeem by paying delinquent taxes and lawful charges, removing the property from the foreclosure pipeline. Mich. Comp. Laws §§ 211.78g(3), 211.78k(5)–(6), 211.78b(g). That "off-ramp" necessarily includes the ability to dispose of the property through a private sale, if the homeowner is unable to satisfy the tax debt through alternative means.

Some regimes provide redemption and equity protection pathways even *after* a sale. Neb. Code § 40-10-120; O.C.G.A. § 48-4-40.[6] Nebraska generally provides a three-year redemption period following a tax certificate sale. Neb. Rev. Stat. § 77-1824. South Carolina provides a one-year redemption period following a tax sale. S.C. Code Ann. § 12-51-90. Alabama and Georgia likewise provide redemption periods following tax sales.

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forfeiture jurisdictions also make use of realtors in their sale processes, though that can also affect the costs of the sale. *See IMLA Survey* 29a (Maine Municipal Association) (noting that Maine law requires municipalities, if possible, to use a real-estate agent or broker to sell tax-acquired property); *id.* at 33a (City of Boston Law Department) (noting that Massachusetts requires municipalities to list foreclosed property with a licensed real-estate agent or broker). Those resources are not available in non-forfeiture jurisdictions, where the tax obligor retains possession and control of the property until the sale.

[6] The right of redemption is a protection for tax obligors but a risk for purchasers, and thus necessarily affects the value that can be realized in a public sale.

These "off-ramps" matter to the constitutional analysis of valuation because they preserve owner agency before the strictures of foreclosure alter the market. When an owner cures the delinquency or arranges a voluntary transfer, the owner can access ordinary market mechanisms that can support potentially higher prices. But when those avenues are not used, a forced sale proceeds under constraints that can affect the price that can be realized. *BFP*, 511 U.S. at 548.

C. These foreclosure procedures—and the context in which they operate—demonstrate the inherent fairness in the process. But if the Court is concerned about case-specific unfairness, it has a narrow and administrable path that does not require a sweeping valuation mandate for state and local governments across the country. Material defects such as serious notice failures, fraud, collusion, or deficient processes can raise due process concerns and justify case-specific remedies focused on the fairness of the sale process. *See Jones*, 547 U.S. at 226–39; *Slater*, 73 U.S. (6 Wall.) at 273, 276. But absent such defects—particularly where the government is not paid and therefore does not retain surplus value beyond the tax debt—the Constitution does not require local governments to guarantee a counterfactual retail outcome to tax-delinquent residents. *Tyler*, 598 U.S. at 637–42; *Freed*, 81 F.4th at 659; *Bowles*, 121 F.4th at 551.

* * *

Thousands of local governments across the country have used democratic processes to develop a multiplicity of procedures, tailored to their local communities, to enforce their tax laws fairly. All of those procedures generally aim to give tax obligors ample opportunity to keep their homes and to maximize the value of their interests in their homes. But tax enforcement schemes strive for fairness across multiple constituencies—to homeowners who fall behind on their taxes, and also to the taxpayers who foot the bill for the many services that benefit the community as a whole. No just compensation system should require a community to pay financial subsidies to individuals who fail to pay their taxes.

III. Tax foreclosure regimes are remedial, not punitive.

A. The Excessive Fines Clause is directed at governmental "fines," U.S. Const. amend. VIII, or "payment[s] to sovereign as punishment for some offense." *United States v. Bajakajian*, 524 U.S. 321, 327 (1998) (quotations omitted). It "limits the government's power to extract payments, whether in cash or in kind, 'as punishment for some offense.'" *Id.* at 328 (citation omitted). Although the Clause can apply in civil settings, its trigger remains the same: the challenged exaction must be at least partly punitive, rather than "solely" remedial. *Austin v. United States*, 509 U.S. 602, 610, 621–22 (1993); *see also Timbs v. Indiana*, 586 U.S. 146, 151 (2019).

When a state or local government conducts a foreclosure sale, applies the proceeds to the delinquency and authorized costs, and returns any surplus to the former owner, it has not extracted any payment beyond what the taxpayer owed. *Bajakajian*, 524 U.S. at 342 (distinguishing punishment from measures that reimburse the government for losses). Treating that process as an Eighth Amendment "fine" would elide the line between punitive sanctions and routine collection of public revenue for local governments. The Court should thus decline to extend the Excessive Fines Clause in a way that recasts ordinary lien enforcement as punitive extraction.

Several indicia support this conclusion.

First, tax foreclosure is triggered by nonpayment of a financial obligation, not by a finding of culpable conduct. The process does not turn on intent or blameworthiness; it proceeds regardless of whether nonpayment resulted from hardship, mistake, or willful refusal. That neutrality of purpose is a hallmark of a remedial collection mechanism rather than a punitive sanction. *See Austin*, 509 U.S. at 610; *Bajakajian*, 524 U.S. at 328.

Second, the structure of tax foreclosure systems emphasizes cure and redemption—features that reinforce that the system's objective is payment of the debt, not punishment of the debtor. *See Tyler*, 598 U.S. at 637–38; Mich. Comp. Laws §§ 211.78 *et seq*. A system designed to punish would not ordinarily provide a standardized mechanism by which the owner can defeat the sale by satisfying the obligation.

Third, the return of the former owner's residual value further confirms the remedial character of the enforcement mechanism. Where the government satisfies the delinquency and lawful charges and returns the surplus proceeds to the former owner, the collection action correlates to the government's loss (unpaid taxes and related costs) rather than extracting value for punishment or revenue beyond the debt. *See Tyler*, 598 U.S. at 639–42; *Freed*, 81 F.4th at 658–59; *Bowles*, 121 F.4th at 551.

To be sure, tax enforcement mechanisms can have incidental deterrent effects. But deterrent effect does not, by itself, transform a remedial scheme into a punitive one. *See Hudson v. United States*, 522 U.S. 93, 105 (1997) (recognizing that deterrence "may serve civil as well as criminal goals" and is not dispositive of whether a measure is punitive (quotations omitted)). In local government practice, foreclosure is not used to "punish" delinquent owners. As explained above, foreclosure operates to maintain the enforceability of property tax obligations across the tax base and, in turn, the viability of local public finance. *See Tyler*, 598 U.S. at 637–38.

B. A foreclosure sale is a mechanism for liquidating property to satisfy a lien. When surplus proceeds are returned, the government has not extracted the property's residual value. The former owner receives the remaining sale proceeds after the delinquency and authorized costs are paid. Pet. App. 11a–12a (describing the judgment below as awarding petitioner surplus proceeds from the foreclosure sale while rejecting a further award based on asserted pre-foreclosure fair market value). Under those conditions, there is no governmental "payment" extracted beyond the debt itself. *Bajakajian*, 524 U.S. at 327–28.

The concern that tax forfeiture schemes might, in certain circumstances, be viewed as punitive if they operate to take and keep value substantially beyond the tax debt (*see Tyler*, 598 U.S. at 645–46) does not materialize here, where the surplus proceeds are returned and the government retains only what the taxpayer owed. Pet. App. 11a–12a. In this setting, the hallmarks of a punitive forfeiture are absent because the government is not extracting additional value as retribution, and it is not imposing an added sanction calibrated to an "offense." *Bajakajian*, 524 U.S. at 327–28.

The proper constitutional boundary is thus the one *Tyler* drew: the government may recover what it is owed, but it may not retain the owner's residual equity. 598 U.S. at 637–42. Where that line is honored, the Excessive Fines Clause provides no basis to impose an additional, valuation-based award untethered to the sale proceeds.

CONCLUSION

For the foregoing reasons, the Court should affirm the Sixth Circuit's decision.

Respectfully submitted,

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January 20, 2026

APPENDIX

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APPENDIX A

Delaware County, Indiana
Respondent #119017335431

1. In your jurisdiction, how is the value of a property determined for tax purposes? How often is the auction price sale different from that amount?

Property value is determined based upon a value made by the County Assessor from the assessment value. The tax or deed sale auction price is different (less than) from the assessed value in the majority of properties sold.

2. In your jurisdiction, are bidders allowed to inspect tax-foreclosed properties before sale, and, if so, can owners consent to such access (e.g., through a consent judgment or some other mechanism)?

The list of properties to be sold is published in a newspaper and made available in the County offices. Prospective bidders are permitted to drive by the properties, but are not allowed to enter the properties unless permission is granted by the owner.

3. What opportunities do property owners have to avoid losing their property before the final auction? Possible examples include:

- **Redemption periods**
- **Installment payment plans**
- **Private sales**
- **Consent showings**

The County Treasurer can enter into a tax sale agreement with the property owner before the sale on a payment arrangement for past due taxes. This is usually an installment payment plan process. A bidder that is successful at a tax sale in obtaining a property is given a Tax Sale Certificate. This allows the bidder to be paid in the event of a redemption. A property owner that has property sold at a tax sale is given a period of redemption of one year from the date of the tax sale to redeem the property by paying off the past due taxes, penalties and costs of the tax sale along with interest that is set by statute on the past due taxes and any surplus. If a property is redeemed, then any surplus is paid back to the bidder. If a property is not redeemed, the holder of the Tax Sale Certificate petitions the court for a tax deed to own the property. If there is a surplus paid on the amount due, the surplus is paid to the owner of the property if requested. [N]o real property can be sold to a buyer after a tax sale without the property taxes being paid and the property redeemed under the statutes. In a deed sale, the property has been through at least 2 tax sales and not sold and also taxes not paid during the interim of the two tax sales. A deed sale is an absolute sale for a bid amount from the County to the bidder. there is no redemption time or ability of the owner to redeem the property once it is sold at a deed sale. An owner can redeem the property prior to the sale or work out an installment arrangement with the County Treasurer prior to the deed sale.

4. Does your jurisdiction use any procedures to ensure that tax-foreclosed properties are sold

for a fair or reasonable value, such as upset-bid rules, resale rights, or other remedies if a sale price is considered too low? What incentives does your jurisdiction have to maximize sale price and ensure fairness?

> No, for a tax sale a minimum bid is established as the amount of the taxes, penalties and cost of sale due for the property to be sold. For a deed sale, there is a minimum bid set and that is not tied to the assessed value of the property or fair market value.

5. How common is it for tax-sale purchasers in your area to make significant improvements (e.g., via building permits or renovations) before reselling the property?

> In Delaware County, about 1/2 of the properties purchased at a tax sale and not redeemed are improved or sold to another party for their use. [M]any tax sale properties not redeemed end up on tax sale list[s] in subsequent years.

6. How many property-tax foreclosure cases occur annually in your jurisdiction, and what proportion are resolved through redemption or payment before sale—suggesting that most homeowners have realistic "off-ramps" in practice?

> A typical tax sale conducted by Delaware County will have around 800 parcels that are offered for sale. About 50% will be sold and issued a tax sale certificate. Before the sale, the property owner can pay the taxes or work out a payment plan with the County Treasurer. That occurs in about 2% of the

total properties offered for sale and after the list is published. Prior to the publication of the list of eligible properties some owners of property will make arrangements for full payment or installment payments in about 2% to 3% of the total properties eligible for the tax sale. After the tax sale approximately 10% of the properties sold and given a tax sale certificate will redeem the property and keep from being foreclosed. At an absolute deed sale, about one-half (50%) of the properties are sold. The rest are either donated to smaller municipalities, land banks, not for profit tax exempt entities for rehab work like Habitat for Humanity or left to go through another sale. Generally industrial properties with some possible environmental issues are not easily disposed of by tax or deed sale. A number of properties are not sold in an absolute deed sale because the owners and/or entities with an interest in the real estate did not get the proper notice, mostly because they have disappeared or gone out of business.

7. How are tax-foreclosed properties marketed in your jurisdiction (e.g., public website, newspaper, third-party auction platform, MLS, signage), and do local governments take any steps to attract competitive bids?

The Indiana Code requires that the list of properties, property owners and parcel numbers be sent a notice via mail and a publication in the newspaper prior to the sale. Delaware County also posts the list of tax sale eligible parcels on its website. As for properties in the deed sale, two notices are required to be sent to the listed property owner, any person, firm or entity that has a legal interest in the property such as judgment holders, mortgage holders or other lien holders are given two notices of the opportunity to pay the balance before the absolute deed sale is conducted.

8. Do your local tax offices or outside vendors have financial or statutory incentives to maximize sale proceeds (for instance, commissions, offsets of administrative costs, or subordination to IRS or demolition liens)?

There are tax sale costs that are added to the past due taxes which are required to be paid. Vendors are permitted to add costs of sale as well as the cost of title searches, advertising and administrative fees to the amount that is to be paid to either pay before the sale or as part of the redemption. Demolition costs can be made a lien that qualifies a property to be sold at a "tax sale" for a tax sale certificate.

St. Louis County, Minnesota
Respondent #119015794828

1. In your jurisdiction, how is the value of a property determined for tax purposes? How often is the auction price sale different from that amount?

In St. Louis County, the value used for tax purposes, or Estimated Market Value (EMV), is determined by the county assessor's office using historic sales information and valuation data combined with periodic site inspections for property value reassessment. Taxes are billed and collected by the County Auditor. The starting bid, or auction price, for forfeitures is the same as the most recent EMV for the initial auction within 6 months of forfeiture required under MN Stat 282.005. If no sale occurs in the initial EMV auction, the parcel is offered in a second auction with starting bid price being the "[m]inimum bid" which means the sum of delinquent taxes, special assessments, penalties, interests, and costs assigned to the parcel.

2. In your jurisdiction, are bidders allowed to inspect tax-foreclosed properties before sale, and, if so, can owners consent to such access (e.g., through a consent judgment or some other mechanism)?

Yes, as long as there are no undue safety related risks, potential bidders are allowed to independently inspect offered forfeited properties in St. Louis County. This entails contacting the county Land and Minerals Department to sign a liability waiver and to check out and return a key upon completion of the inspection as the properties are secured. A former owner's consent is not required by our county.

3. What opportunities do property owners have to avoid losing their property before the final auction? Possible examples include:

- **Redemption periods**
- **Installment payment plans**
- **Private sales**
- **Consent showings**

1. Redemption periods: Property owners have the option to repurchase the property before final auction as established under MN Stat 282.241.

2. Installment payment plans: The County Auditor can negotiate payment plans with owners of property in tax delinquent status.

3. Private sales: Private sale is a means to avoid tax forfeiture. Delinquent taxes are required to be paid and made current before sale transfer and recording. Delinquent taxes are sometimes negotiated between buyer and seller.

4. Consent showings: Tax forfeited properties are available for independent inspections for the purpose of showing to potential bidders of the auction. Former owner consent is not required. Former owners can only enter property upon request and approval.

4. Does your jurisdiction use any procedures to ensure that tax-foreclosed properties are sold for a fair or reasonable value, such as upset-bid rules, resale rights, or other remedies if a sale price is considered too low? What incentives does your jurisdiction have to maximize sale price and ensure fairness?

St. Louis County offers forfeited properties with starting bid equal to the EMV in accordance with MN Stat 282.05. The property is offered via an unrestricted public online auction format that is available to all with internet access, worldwide. We have determined an unrestricted online auction system maximizes ease and fairness to reach and accommodate the maximum number of potential bidders. In addition, MN Statute 282.005, subd. 4 requires notice of the sale must be provided by publication in newspapers, websites, and other forums that serve diverse communities in the county where the property is located at least 30 days before the commencement of the sale.

5. How common is it for tax-sale purchasers in your area to make significant improvements (e.g., via building permits or renovations) before reselling the property?

Many tax forfeited parcels come to the county in a dilapidated or poor condition due to the nature of tax forfeited property. It is common and often necessary for the purchasers of tax forfeited properties to make significant improvements before reselling the property to compensate or improve upon the purchase price of the property. It is common for the county to have to clean up, remediate, or demolish personal property in order to bring many tax forfeited properties up to a "saleable" condition or a condition which would interest potential purchasers.

6. How many property-tax foreclosure cases occur annually in your jurisdiction, and what proportion are resolved through redemption or payment before sale—suggesting that most homeowners have realistic "off-ramps" in practice?

This this request would have to be further analyzed to ensure an accurate response.

7. How are tax-foreclosed properties marketed

in your jurisdiction (e.g., public website, newspaper, third-party auction platform, MLS, signage), and do local governments take any steps to attract competitive bids?

St. Louis County offers tax forfeited property via an unrestricted public online auction format that is available to all with internet access worldwide. We have determined an unrestricted online auction system that maximizes ease and fairness to reach and accommodate the maximum number of potential bidders. Property advertisement meets the minimum required under MN Statute 282.005, [s]ubd. 4 which requires notice of the sale must be provided by publication in newspapers, websites, and other forums that serve diverse communities in the county where the property is located at least 30 days before the commencement of the sale. The county also advertises by placing signage at the property on-site, the county's social media platform, the county's internet, site, and flyers distributed across the county.

8. Do your local tax offices or outside vendors have financial or statutory incentives to maximize sale proceeds (for instance, commissions, offsets of administrative costs, or subordination to IRS or demolition liens)?

MN Statute 282.005 requires a public auction procedure with prior advertisement timelines and requirements which is intended to maximize sale proceeds and fairness in the sale process.

City of Philadelphia, Pennsylvania
Respondent #119015710014

1. In your jurisdiction, how is the value of a property determined for tax purposes? How often is the auction price sale different from that amount?

The property is valued by the county assessors on a bi-annual basis. The auction price is different from that amount 100 percent of the time. Sometimes it is higher, sometimes it is lower. Property valuation is voodoo. It's a guess.

2. In your jurisdiction, are bidders allowed to inspect tax-foreclosed properties before sale, and, if so, can owners consent to such access (e.g., through a consent judgment or some other mechanism)?

No.

3. What opportunities do property owners have to avoid losing their property before the final auction? Possible examples include:

- **Redemption periods**
- **Installment payment plans**
- **Private sales**
- **Consent showings**

In Pennsylvania, property owners can 1) get into payment agreements to pay the tax, 2) sell the property and pay the tax, 3) declare [bankruptcy], or depending on what statute the property is sold under redeem the property.

4. Does your jurisdiction use any procedures to ensure that tax-foreclosed properties are sold

for a fair or reasonable value, such as upset-bid rules, resale rights, or other remedies if a sale price is considered too low? What incentives does your jurisdiction have to maximize sale price and ensure fairness?

In Pennsylvania, generally the first sales are subject to the other encumbrances. If there is not robust bidding, then there is an upset sale which sells it free and clear. In Philadelphia and Allegheny counties the sale prices are immediately free and clear. Further, we now have online bidding. Online bidding allows bidders from all over the world to participate. Anecdotally, we have seen a huge increase in sale prices from online bidding.

5. How common is it for tax-sale purchasers in your area to make significant improvements (e.g., via building permits or renovations) before reselling the property?

It's a mixed bag. Usually they just hold for a short period and then sell to a developer.

6. How many property-tax foreclosure cases occur annually in your jurisdiction, and what proportion are resolved through redemption or payment before sale—suggesting that most homeowners have realistic "off-ramps" in practice?

In Philadelphia, the Law Department starts with a list of usually 1-200 properties. In the weeks before the sale we do substantial outreach and winnow that down to a handful of properties that go to auction. Further, we have a diversion program for owner occupants.

7. How are tax-foreclosed properties marketed in your jurisdiction (e.g., public website, newspaper, third-party auction platform, MLS, signage), and do local governments take any steps to attract competitive bids?

Properties are listed in multiple publications and on the web.

8. Do your local tax offices or outside vendors have financial or statutory incentives to maximize sale proceeds (for instance, commissions, offsets of administrative costs, or subordination to IRS or demolition liens)?

No.

Municipality of Anchorage, Alaska
Respondent #119015597472

1. In your jurisdiction, how is the value of a property determined for tax purposes? How often is the auction price sale different from that amount?

By state law, property is assessed for its full and true value, minus any allowed exemptions. The auction price is always different than the assessed value. Auction price is the outstanding taxes, interest, penalties, admin fees, plus any costs of maintaining/managing the property while in municipal ownership; i.e. cleanup fees, HOA/condo dues, demolition costs.

2. In your jurisdiction, are bidders allowed to

inspect tax-foreclosed properties before sale, and, if so, can owners consent to such access (e.g., through a consent judgment or some other mechanism)?

Only exterior inspection. The Municipality does not open the property while holding clerk's deed, but the bidders are allowed to contact the residents in the property to arrange an interior inspection. The Municipality does not give contact info or imply that bidders should make contact, they do that on their own.

3. What opportunities do property owners have to avoid losing their property before the final auction? Possible examples include:

- **Redemption periods**
- **Installment payment plans**
- **Private sales**
- **Consent showings**

Redemption period/Repurchase right up until the auction closes. The Municipality has allowed for private sale arrangements to be made.

4. Does your jurisdiction use any procedures to ensure that tax-foreclosed properties are sold for a fair or reasonable value, such as upset-bid rules, resale rights, or other remedies if a sale price is considered too low? What incentives does your jurisdiction have to maximize sale price and ensure fairness?

No, none of the above. Minimum bid is outstanding taxes and fees.

5. How common is it for tax-sale purchasers in

your area to make significant improvements (e.g., via building permits or renovations) before reselling the property?

We do not track this.

6. How many property-tax foreclosure cases occur annually in your jurisdiction, and what proportion are resolved through redemption or payment before sale—suggesting that most homeowners have realistic "off-ramps" in practice?

The average number of cases over the last 10 years: 810 per year. On average, only 6 of those are not resolved and included in the auction. So, the vast majority (804) are resolved.

7. How are tax-foreclosed properties marketed in your jurisdiction (e.g., public website, newspaper, third-party auction platform, MLS, signage), and do local governments take any steps to attract competitive bids?

Auctioned properties are listed in the local newspaper, posted on our website, and signage is posted at the property for auction.

8. Do your local tax offices or outside vendors have financial or statutory incentives to maximize sale proceeds (for instance, commissions, offsets of administrative costs, or subordination to IRS or demolition liens)?

No.

Fairfax County, Virginia
Respondent #119013136553

1. In your jurisdiction, how is the value of a property determined for tax purposes? How often is the auction price sale different from that amount?

Real estate values are to be assessed based on 100% of the fair market value of the property. For judicial tax sales in Virginia, properties that are assessed higher than $100,000 require an appraisal to be submitted to the court prior to a decree of sale permitting the auction of the real estate. Typically, the appraisals are 'exterior only' so the information can be limited in some instances.

2. In your jurisdiction, are bidders allowed to inspect tax-foreclosed properties before sale, and, if so, can owners consent to such access (e.g., through a consent judgment or some other mechanism)?

No, Virginia does not permit an on-site inspection prior to the auction. We do encourage all bidders to lawfully view the property and conduct their own due diligence before bidding.

3. What opportunities do property owners have to avoid losing their property before the final auction? Possible examples include:

- **Redemption periods**
- **Installment payment plans**
- **Private sales**
- **Consent showings**

We endeavor to allow all properties to redeem prior to auction and provide payment plans that are reasonably intended to meet the competing goals of paying off the delinquency timely, as well as staying within the property owner's budget. In Virginia, anyone can redeem the property by paying all taxes due up to the day of the auction. Private sales are generally not conducted in Virginia unless there are exigent circumstances. An example is a parking lot of a condominium complex where the defunct developer failed to transfer the lot to the condo association.

4. Does your jurisdiction use any procedures to ensure that tax-foreclosed properties are sold for a fair or reasonable value, such as upset-bid rules, resale rights, or other remedies if a sale price is considered too low? What incentives does your jurisdiction have to maximize sale price and ensure fairness?

Taxing Authority Consulting Services, PC conducts the auctions for Fairfax County. The attorneys are very conscious of the assessed or appraised values and operate with a term of sale that the attorney can call 'no sale' if the bid price is not reasonable under the circumstances. Generally speaking, we attempt to achieve a bid price over 60% of the assessed value or 75% of the appraised value as a general rule of thumb. Virginia does not permit upset bids, however, courts in Virginia judicial sales are responsible for making a determination of reasonableness of the property sale price at a post-auction decree of confirmation.

5. How common is it for tax-sale purchasers in your area to make significant improvements (e.g., via building permits or renovations) before reselling the property?

Post-auction use of the property has not been studied and is therefore unknown.

6. How many property-tax foreclosure cases occur annually in your jurisdiction, and what proportion are resolved through redemption or payment before sale—suggesting that most homeowners have realistic "off-ramps" in practice?

Fairfax will typically begin tax sale proceedings to sell 15 to 25 properties per year with approximately one-half redeeming prior to the auction. Fairfax also places accounts with Taxing Authority Consulting Services, PC, before they are aged sufficiently for a tax sale in order to start the collections process early through other means than by tax sale to attempt resolution of the delinquency early.

7. How are tax-foreclosed properties marketed in your jurisdiction (e.g., public website, newspaper, third-party auction platform, MLS, signage), and do local governments take any steps to attract competitive bids?

Tax sales in Fairfax County are conducted via online bidding, which began during COVID. The participation, both in number of bidders and the bid prices achieved, proved to be much better with this model. Online auctions will open for bidding approximately 2-3 weeks prior to the auction close date for bids to be received for multiple days. TACS maintains a repository of approximately 28,000 emails for interested bidders that receive notice of the auction 30 days prior to the close and a reminder email two days prior to the close of bidding. TACS includes the advertisement on its website. Newspaper publications are also provided in the legal classifieds section of the generally circulated local paper. TACS also fields calls from interested bidders related to the properties to explain the process and provide information about the property.

8. Do your local tax offices or outside vendors have financial or statutory incentives to maximize sale proceeds (for instance, commissions, offsets of administrative costs, or subordination to IRS or demolition liens)?

The only incentive designed to maximize pricing at auctions is the provision for a special commissioner of sale in judicial sales to receive as compensation 5% of the purchase price for the first $100,000 and 2% for all amounts over $100,000. The tax sale provisions, however, do not allow for compensation for the add-on attorney fees in addition to the special commissioner's fee, so tax sale attorneys typically are remunerated on the higher of the two. If auctioneers are employed to aid in the tax sales, they are generally compensated with a buyer's premium on a percentage of the sale price that is borne by the high bidder and is not taken from the sale price.

City of Hampton, Virginia
Respondent #119008054787

1. In your jurisdiction, how is the value of a property determined for tax purposes? How often is the auction price sale different from that amount?

For Tax Purposes - Fair Market Value No records maintained re: comparison of auction price to fair market value; [a]uction prices [are] subject to judicial review for reasonableness.

2. In your jurisdiction, are bidders allowed to inspect tax-foreclosed properties before sale, and, if so, can owners consent to such access (e.g., through a consent judgment or some other mechanism)?

No statutory right to inspect tax-foreclosed properties.

3. What opportunities do property owners have to avoid losing their property before the final auction? Possible examples include:

- **Redemption periods**
- **Installment payment plans**
- **Private sales**
- **Consent showings**

Redemption period & [i]nstallment payment plans.

4. Does your jurisdiction use any procedures to ensure that tax-foreclosed properties are sold for a fair or reasonable value, such as upset-bid rules, resale rights, or other remedies if a sale price is considered too low? What incentives

does your jurisdiction have to maximize sale price and ensure fairness?

Judiciary Review on majority to determine reasonableness of sales price; [a]bility to sell properties without judicial review limited (primarily only certain unimproved parcels; or certain condemned, derelict, blighted properties); no incentives.

5. How common is it for tax-sale purchasers in your area to make significant improvements (e.g., via building permits or renovations) before reselling the property?

No data.

6. How many property-tax foreclosure cases occur annually in your jurisdiction, and what proportion are resolved through redemption or payment before sale—suggesting that most homeowners have realistic "off-ramps" in practice?

Not tracked; estimate based on recent action - 25% redeemed prior to auction

7. How are tax-foreclosed properties marketed in your jurisdiction (e.g., public website, newspaper, third-party auction platform, MLS, signage), and do local governments take any steps to attract competitive bids?

Third party auction platform, signage, newspaper, public website.

8. Do your local tax offices or outside vendors have financial or statutory incentives to

maximize sale proceeds (for instance, commissions, offsets of administrative costs, or subordination to IRS or demolition liens)?

To the extent available Sale proceeds are first paid to taxes, costs, liens of record - all of which may or may not get paid depending on the price achieved at auction.

City of Rochester, New York
Respondent #119006664011

1. In your jurisdiction, how is the value of a property determined for tax purposes? How often is the auction price sale different from that amount?

All properties have an assessed value based upon a quadrennial citywide reassessment. I don't know how often the auction price is different than assessed value.

2. In your jurisdiction, are bidders allowed to inspect tax-foreclosed properties before sale, and, if so, can owners consent to such access (e.g., through a consent judgment or some other mechanism)?

A list of properties subject to tax foreclosure is published and those interested can conduct an exterior inspection from the public right of way.

3. What opportunities do property owners have to avoid losing their property before the final auction? Possible examples include:

- **Redemption periods**

- **Installment payment plans**
- **Private sales**
- **Consent showings**

We allow redemptions and tax delinquency payment plans until a week prior to the auction date.

4. Does your jurisdiction use any procedures to ensure that tax-foreclosed properties are sold for a fair or reasonable value, such as upset-bid rules, resale rights, or other remedies if a sale price is considered too low? What incentives does your jurisdiction have to maximize sale price and ensure fairness?

We advertise a public sale for six weeks in advance of the auction. The auction approximates fair market value.

5. How common is it for tax-sale purchasers in your area to make significant improvements (e.g., via building permits or renovations) before reselling the property?

I don't know.

6. How many property-tax foreclosure cases occur annually in your jurisdiction, and what proportion are resolved through redemption or payment before sale—suggesting that most homeowners have realistic "off-ramps" in practice?

We commence the tax foreclosure action in April, typically with over 4,000 parcels on the list. By the time we get to the auction this number is typically below 200 parcels, the remainder having been redeemed or having a payment plan.

7. How are tax-foreclosed properties marketed in your jurisdiction (e.g., public website, newspaper, third-party auction platform, MLS, signage), and do local governments take any steps to attract competitive bids?

Website, newspaper.

8. Do your local tax offices or outside vendors have financial or statutory incentives to maximize sale proceeds (for instance, commissions, offsets of administrative costs, or subordination to IRS or demolition liens)?

No.

City of Charleston, South Carolina
Respondent #119006645917

1. In your jurisdiction, how is the value of a property determined for tax purposes? How often is the auction price sale different from that amount?

The county assessor determines assessed value by establishing fair market value then applying a state-mandated assessment ratio based on the property's use; the tax assessor reassesses property every 5 years. The sales price at tax sale is usually less than the assessed value, as clear title is not warranted. Most properties will require a subsequent quiet title action after a tax sale.

2. In your jurisdiction, are bidders allowed to inspect tax-foreclosed properties before sale,

and, if so, can owners consent to such access (e.g., through a consent judgment or some other mechanism)?

No, unless owner allows entry on the property.

3. What opportunities do property owners have to avoid losing their property before the final auction? Possible examples include:

- **Redemption periods**
- **Installment payment plans**
- **Private sales**
- **Consent showings**

12 month redemption period post sale, private sales.

4. Does your jurisdiction use any procedures to ensure that tax-foreclosed properties are sold for a fair or reasonable value, such as upset-bid rules, resale rights, or other remedies if a sale price is considered too low? What incentives does your jurisdiction have to maximize sale price and ensure fairness?

SC is a judicial foreclosure state but tax sales are conducted separately by the county, by public auction, under a very specific statutory framework. If the specific procedure is not followed, the tax sale can be vacated. There are a series of notices including certified mail, property posting all before the sale and there is a 12 month redemption period following the sale before the tax deed is issued.

5. How common is it for tax-sale purchasers in your area to make significant improvements

(e.g., via building permits or renovations) before reselling the property?

Very.

6. How many property-tax foreclosure cases occur annually in your jurisdiction, and what proportion are resolved through redemption or payment before sale—suggesting that most homeowners have realistic "off-ramps" in practice?

I do not have this data but Charleston County will most certainly. If no member provides this, I can reach out to a contact there.

7. How are tax-foreclosed properties marketed in your jurisdiction (e.g., public website, newspaper, third-party auction platform, MLS, signage), and do local governments take any steps to attract competitive bids?

Tax sales are advertised in local newspapers before each sale.

8. Do your local tax offices or outside vendors have financial or statutory incentives to maximize sale proceeds (for instance, commissions, offsets of administrative costs, or subordination to IRS or demolition liens)?

No.

City of Middletown, Connecticut
Respondent #119006602213

1. In your jurisdiction, how is the value of a property determined for tax purposes? How

often is the auction price sale different from that amount?

A revaluation of all real property is conducted every 5 years. The auction sale price starts at the amount of the taxes owed to the municipality, plus any fees and court costs.

2. In your jurisdiction, are bidders allowed to inspect tax-foreclosed properties before sale, and, if so, can owners consent to such access (e.g., through a consent judgment or some other mechanism)?

No.

3. What opportunities do property owners have to avoid losing their property before the final auction? Possible examples include:

- **Redemption periods**
- **Installment payment plans**
- **Private sales**
- **Consent showings**

If the foreclosure is a strict foreclosure, it is a redemption period. If it is a foreclosure by sale, none. in Connecticut, all tax foreclosures are exempt from the court mandated mediation program required for all other foreclosures.

4. Does your jurisdiction use any procedures to ensure that tax-foreclosed properties are sold for a fair or reasonable value, such as upset-bid rules, resale rights, or other remedies if a sale price is considered too low? What incentives does your jurisdiction have to maximize sale price and ensure fairness?

Unknown.

5. How common is it for tax-sale purchasers in your area to make significant improvements (e.g., via building permits or renovations) before reselling the property?

Unknown.

6. How many property-tax foreclosure cases occur annually in your jurisdiction, and what proportion are resolved through redemption or payment before sale—suggesting that most homeowners have realistic "off-ramps" in practice?

Unknown.

7. How are tax-foreclosed properties marketed in your jurisdiction (e.g., public website, newspaper, third-party auction platform, MLS, signage), and do local governments take any steps to attract competitive bids?

On the Connecticut judicial website.

8. Do your local tax offices or outside vendors have financial or statutory incentives to maximize sale proceeds (for instance, commissions, offsets of administrative costs, or subordination to IRS or demolition liens)?

No, the City's tax collector does not, since either the City will be made whole for the delinquent taxes during the foreclosure by sale, or if there are no bidders, the City will acquire the property and can then sell it or decide to keep it.

Maine Municipal Association
Respondent # 119012469611

1. In your jurisdiction, how is the value of a property determined for tax purposes? How often is the auction price sale different from that amount?

Property taxes are assessed based on just value as required by Maine's constitution and as defined in statute. 36 MRS § 701-A. However, after a property is tax-acquired, it may sell for significantly less than the assessed value due to title problems inherent in such property.

2. In your jurisdiction, are bidders allowed to inspect tax-foreclosed properties before sale, and, if so, can owners consent to such access (e.g., through a consent judgment or some other mechanism)?

State law does not address this. Access would be determined by each municipality selling a specific property. Generally, I believe it is occurs in most situations.

3. What opportunities do property owners have to avoid losing their property before the final auction? Possible examples include:

- **Redemption periods**
- **Installment payment plans**
- **Private sales**
- **Consent showings**

Maine's tax lien mortgage process (36 MRS §§ 942-943) includes several notices and an 18-month redemption period before the lien forecloses and title passes to the municipality. After foreclosure, if the property is sold to someone other than the former owner, the sale process is governed by 36 MRS § 943-C, which requires a pre-sale notice 90 days before the property is listed for sale. Maine law allows the municipal officers to sell tax-acquired property back to a former owner on terms determined locally, but which usually involve a repurchase price based on the amount of back taxes rather than market value. Maine municipalities may use installment payment contracts to allow for repurchase over time. Maine also has a number of property tax relief programs and has a poverty abatement process that can help a property owner avoid lien foreclosure.

4. Does your jurisdiction use any procedures to ensure that tax-foreclosed properties are sold for a fair or reasonable value, such as upset-bid rules, resale rights, or other remedies if a sale price is considered too low? What incentives does your jurisdiction have to maximize sale price and ensure fairness?

Sale of tax acquired property to someone other than the former owner is governed by 36 MRS § 943-C, which requires that the municipality use a real estate broker/agent if possible and that the property be listed for the highest reasonable price the property is anticipated to sell - in consultation with the real estate broker. If tax-acquired property is retained for municipal use, an appraisal must be procured to determine the value and to use as a benchmark for calculating any excess equity to be returned to the former owner (per *Tyler v Hennepin*). Maine's statute was revised after the *Tyler v. Hennepin* decision.

5. How common is it for tax-sale purchasers in your area to make significant improvements (e.g., via building permits or renovations) before reselling the property?

Unknown.

6. How many property-tax foreclosure cases occur annually in your jurisdiction, and what proportion are resolved through redemption or payment before sale—suggesting that most homeowners have realistic "off-ramps" in practice?

Unknown.

7. How are tax-foreclosed properties marketed in your jurisdiction (e.g., public website, newspaper, third-party auction platform, MLS, signage), and do local governments take any steps to attract competitive bids?

Generally they are marketed, per 36 MRS § 943-C, through real estate broker/agent platforms.

8. Do your local tax offices or outside vendors have financial or statutory incentives to maximize sale proceeds (for instance, commissions, offsets of administrative costs, or subordination to IRS or demolition liens)?

The law allows the municipality to recoup back taxes, costs and a list of other expenses in 36 MRS § 943-C.

City of Boston Law Department
Respondent # 119012651454

1. In your jurisdiction, how is the value of a property determined for tax purposes? How often is the auction price sale different from that amount?

MGL Chapter 60 was amended in 2024 in response to *Tyler v. Hennepin*. Section 64A was added as a new section under Chapter 60 to create a process to return surplus equity to foreclosed owners. Chapter 60, Section 64A requires that municipalities either a) list the property for sale with a real estate agent or broker licensed in the Commonwealth or b) appraise the parcel for the highest and best use of the property as of the date of the final judgment of foreclosure.

2. In your jurisdiction, are bidders allowed to inspect tax-foreclosed properties before sale, and, if so, can owners consent to such access (e.g., through a consent judgment or some other mechanism)?

Unknown.

3. What opportunities do property owners have to avoid losing their property before the final auction? Possible examples include:

- **Redemption periods**
- **Installment payment plans**
- **Private sales**
- **Consent showings**

Redemption periods and installment payment plans.

4. Does your jurisdiction use any procedures to ensure that tax-foreclosed properties are sold for a fair or reasonable value, such as upset-bid rules, resale rights, or other remedies if a sale price is considered too low? What incentives does your jurisdiction have to maximize sale price and ensure fairness?

MGL Chapter 60 was amended in 2024 in response to *Tyler v. Hennepin*. Section 64A was added as a new section under Chapter 60 to create a process to return surplus equity to foreclosed owners. Chapter 60, Section 64A requires that municipalities either a) list the property for sale with a real estate agent or broker licensed in the Commonwealth or b) appraise the parcel for the highest and best use of the property as of the date of the final judgment of foreclosure.

5. How common is it for tax-sale purchasers in your area to make significant improvements (e.g., via building permits or renovations) before reselling the property?

The City of Boston will address life safety concerns, but not make signinificant [sic] improvements/renovations.

6. How many property-tax foreclosure cases occur annually in your jurisdiction, and what proportion are resolved through redemption or payment before sale—suggesting that most homeowners have realistic "off-ramps" in practice?

The City of Boston initiates between 150 and 200 tax foreclosures [sic] annually. The overwhelming vast majority (~95%) are redeemed prior to foreclosure.

7. How are tax-foreclosed properties marketed in your jurisdiction (e.g., public website, newspaper, third-party auction platform, MLS, signage), and do local governments take any steps to attract competitive bids?

Chapter 60, Section 64A requires that municipalities either list the foreclosed property for sale with a real estate agent or broker licensed in the Commonwealth.

8. Do your local tax offices or outside vendors have financial or statutory incentives to maximize sale proceeds (for instance, commissions, offsets of administrative costs, or subordination to IRS or demolition liens)?

Chapter 60, Section 64A requires that municipalities either a) list the property for sale with a real estate agent or broker licensed in the Commonwealth or b) appraise the parcel for the highest and best use of the property as of the date of the final judgment of foreclosure.

West Virginia Municipal League
Respondent #N/A

Survey response submitted by email

In West Virginia, a delinquent land sale, often referred to as a sheriff's tax lien sale, is a public auction conducted by the county sheriff's tax office to recover unpaid real estate taxes on properties that have become delinquent. This process is a critical mechanism for counties to ensure revenue collection for public services like schools, when property owners fail to pay their taxes. The sale involves offering tax liens on the delinquent properties to the highest bidder, who may eventually gain ownership if the original owner does not redeem the property. The process is governed by West Virginia Code § 11A-3-1 et seq., specifically § 11A-3-2 through § 11A-3-32, which outline the steps, timelines, and rights involved. The general framework for property tax levies in West Virginia indicates that taxing authorities include, among others, "municipal" taxing bodies.

County officials primarily administer the West Virginia Property Tax. Although the West Virginia Tax Division plays a major role, less than 0.50 percent of the Property Tax collected goes to State government. The primary beneficiaries of the Property Tax are county boards of education who get approximately 66.3% of property taxes levied. Counties get 26.7%. While cities get 6%.