

PROPERTY-TAX ISSUES: GETTING YOUR MONEY BACK

By Craig R. Fiederlein and Kara Moore, Attorneys at Law

The Michigan Supreme Court recently decided a case, determining that it is unconstitutional for Michigan's county treasurers to retain the surplus funds from the sales of properties, having been foreclosed on due to delinquent taxes.^[1] Michigan's amended General Property Tax Act has been in place from 1999 to present. During that time, many properties have been foreclosed on throughout Michigan's 83 counties – the first incident occurring in 2001.^[2]

Therefore, it is likely that the courts will see many more cases related to this unconstitutional taking throughout the coming years. In fact, some project that the “potential fiscal impact to [Oakland] county [will] be between \$40 and \$50 million.”^[3] Furthermore, a class action has been filed, including about 140 class members from 38 counties with damages of approximately \$7 million.^[4] In 2020 alone, Kalamazoo County allegedly obtained \$1.4 million from foreclosures due to delinquent taxes.^[5]

There are simple questions that you can ask yourself to help determine whether you or someone you know has been affected by this change in the law:

1. Do you have any unpaid property taxes?
2. If yes, has the government foreclosed on your home?
3. If yes, did the government sell your home for more than you owed in taxes and fees?
4. If yes, did you receive any money back from the sale of your home?
5. If no, you should contact an attorney to see if there is anything that can be done on your behalf because you might be entitled to the surplus proceeds of your home's sale.

On a separate note, please be sure to review your property's “Notice of Assessment.” According to Michigan property tax law, these terms have the following meanings:

- **Assessed value**— The assessed value is determined by a property's market value. This is set by the assessor, the assessed value when multiplied by two will give an approximate market value of the property. The assessor is constitutionally required to set the assessed value at 50% of the usual selling price or true cash value of the property.

- **State Equalized Value (SEV)**— SEV is the assessed value that has been adjusted following county and state equalization. The County Board of Commissioners and the Michigan State Tax Commission must review local assessments and adjust (equalize) them if they are above or below the constitutional 50% level of assessment.

- **Taxable value**— A property's taxable value is the value used for determining the property owner's tax liability. Multiplying the taxable value by the local millage rate will determine your tax liability. Taxable value increases from year to year by the rate of inflation or 5%, whichever is lower. Transfers of ownership and improvements to the property will increase the taxable value more than the rate of inflation but never more than the assessed value.

Be careful in reviewing this document. I typically recommend that my clients obtain a broker opinion of value or an appraisal upon retaining my office to determine if the true cash value or market value is more than the taxable value. For example: If you own a home that is valued today for \$300,000 and you have a taxable value of \$250,000, you are being taxed on \$500,000 for a home valued at \$300,000. Residential Real Property disputes must first be presented to the March Board of Review, the dates of which are located on your Notice of Assessment. If you are unhappy with the March Board of Review's decision, residential properties can appeal to the Michigan Tax Tribunal by July 31. On the other hand, Commercial, Industrial, or Development Real Properties can choose to appeal to either the Board of Review or to the Michigan Tax Tribunal by May 31.

For further information on these or other issues, please contact the law firm of CFLEGAL, PC at www.cflegal.net.

^[1] See *Rafaeli, LLC v. Oakland County*, Docket no. 156849, Mich. (July 17, 2020).

^[2] Michigan Department of Treasury: Michigan Taxes, New Law Tax Foreclosure Archive, https://www.michigan.gov/taxes/0,4676,7-238-43535_55601_55605-235134--,00.html (accessed January 4, 2021).

^[3] *The Oakland Press*, Oakland County may have to payback \$50 million to former property owners, https://www.michigan.gov/taxes/0,4676,7-238-43535_55601_55605-235134--,00.html (July 22, 2020).

^[4] <https://www.google.com/amp/s/wmt.com/amp/news/local/foreclosed-homeowners-son-files-suit-to-force-kalamazoo-county-to-pay-up-on-tax-sale> (December 17, 2020).

^[5] *Id.*