POLICY CONFLICT AND PROPERTY TAX FORCLOSURES

Several Illinois counties are facing lawsuits related to property tax foreclosures, following a landmark 2023 U.S. Supreme Court ruling (*Tyler v. Hennepin County*). The decision held that when a home is sold due to unpaid property taxes, any surplus proceeds beyond the tax debt must be returned to the former homeowner. Failure to do so is a possible violation of the Fifth Amendment's "Takings Clause."

How Tax Sales Work Under Illinois Law

When a homeowner falls behind on property taxes, a tax buyer (private investor) can purchase the delinquent tax debt at a county tax sale. If the homeowner does not pay back the tax buyer (redeem the property) within a set redemption period—often 2–3 years—the tax buyer can take ownership of the property. Any equity the homeowner had in the home (its market value minus the tax debt) is not returned to them. The homeowner loses the entire property. The tax buyer keeps it—even if it's worth vastly more than the taxes owed.

Recent data reveals that Illinois' property tax sale system disproportionately harms Black homeowners, particularly in Cook County. Since 2019, more than 1,000 owner-occupied homes—primarily in majority-Black neighborhoods like Englewood and Roseland—have been lost through tax foreclosures. Studies show that over 70% of evicted homeowners in Cook County are Black, and that tax sale activity is heavily concentrated in communities of color. In many cases, homeowners lose properties worth over $100,000 to satisfy tax debts averaging just $2,000, resulting in substantial loss of generational wealth.

Incongruity Between the Federal Court Decision and Illinois Law

Illinois' current tax foreclosure laws do not comport with the decision in *Tyler v. Hennepin County*, exposing counties to legal and financial risk because of the incongruity between federal and state law.

Illinois law allows counties to auction off delinquent property tax liens to private investors. If the original homeowner fails to repay the tax debt in time, the investor can take title to the property, regardless of how much equity the homeowner had. State law does not provide a mechanism to return any surplus property value to the original owner, even when that value far exceeds the taxes owed. Under *Tyler v. Hennepin County*, however, the surplus equity must be paid to the homeowner.

Affected homeowners throughout the state have filed class-action and individual lawsuits in state and federal courts. They are seeking to recoup equity taken from them when their homes were sold for more than what they owed.

Despite the urgency, the Illinois General Assembly has not yet passed reforms to align state law with the Supreme Court's ruling.