Tackling Vacancy and Abandonment: Strategies and Impacts after the Great Recession

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Detroit's Tax Foreclosure Problem

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Introduction

In 1999, the Michigan legislature amended the state's property tax foreclosure law. The new law shortened the period of tax delinquency prior to foreclosure from about seven years to three years and sought to guarantee clear title at the end of the process (Michigan Public Act 123 of 1999). At the end of foreclosure, the county treasurer would sell the properties at auction, ending the previous sale of tax liens. The goal was to facilitate the preservation and reuse of property that owners were abandoning (Akers, 2013; Citizens Research Council of Michigan, 1999). The new law was cited as a good practice for other states seeking to encourage reuse of abandoned property (Alexander and Powell, 2011; Mallach, 2006).

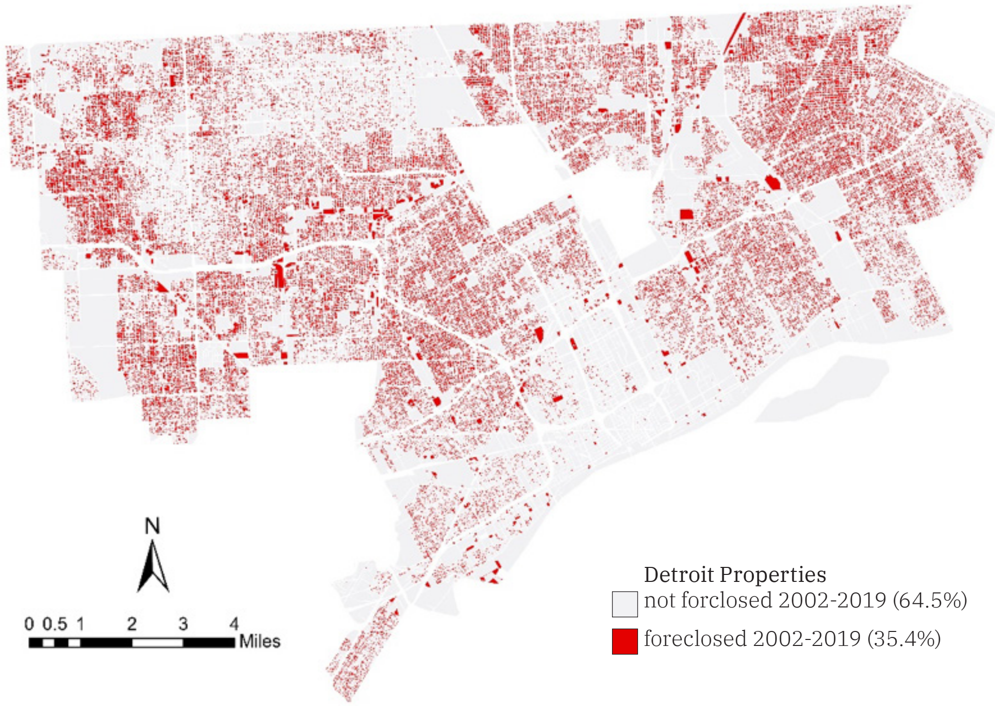
Embedded in the legislation, however, was an assumption that demand existed for property if barriers to reuse were removed from foreclosure law, an expectation that was often not realized. In addition, no one foresaw that, in the aftermath of the deep 2007-2009 recession, tens of thousands of households would fail to pay property taxes and lose their homes or that many landlords and owners of commercial properties would also not pay their taxes and would experience foreclosure.

Other legislation, when implemented in coordination with tax foreclosure, could have reduced the harm to residents and to property. Several provisions allow for reduction of property taxes billed to low-income homeowners or passed on to low-income renters (Lincoln Institute of Land Policy, 2018). Most notably, in 1980 the legislature enacted the poverty tax exemption, which states that the property of low-income owner occupants is exempt from taxation after approval of an application; local officials determine the details of the program (Michigan Public Act 142 of 1980). Legislation in 2003 enabled counties and the City of Detroit to set up land banks that could manage the sale of tax-reverted properties after the county tax auctions (Michigan Public Act 258 of 2003). The way land banks handle properties can hold promise to reduce the harm of tax foreclosures for homeowners and renters and to prevent more damage to property (Dewar, 2006, 2015).

The impact of tax foreclosures was most apparent in Detroit, the Michigan city that has experienced the most property tax foreclosures over the past two decades. From 2002 (the first year that properties were foreclosed under the new law) through 2019, Detroit saw roughly 135,500 properties tax foreclosed at least once, more than 35 percent of all properties in the city. Although the density of tax foreclosures varied, no area of the city was untouched (Figure 1). More than 25,400 of these properties went through tax foreclosure more than once (Data Driven Detroit, 2020).

Numerous articles and reports have looked at aspects of the city's tax foreclosure problem (for example, Coenen et al., 2011; MacDonald, 2011c; Atuahene and Berry, 2019). This article analyzes the situation by bringing together the extensive writing on tax foreclosure as well as drawing on my experience working on tax foreclosure issues since 2004 with community and nonprofit

Figure 1. Detroit Properties That Experienced Tax Foreclosure at Least Once, 2002-2019



Sources: Data Driven Detroit 2020; City of Detroit Assessor 2020b.

organizations and public agencies. In sum, this analysis shows that residents' financial hardship, the city government's fiscal emergency, and city and county officials' failure to implement relief provisions led to a huge increase in tax foreclosures. After 2015, improvements in the local economy, the city government's emergence from bankruptcy, and many efforts to prevent tax foreclosure reduced the numbers considerably. Nevertheless, most efforts were temporary, and the next recession could threaten large increases in tax foreclosures again.

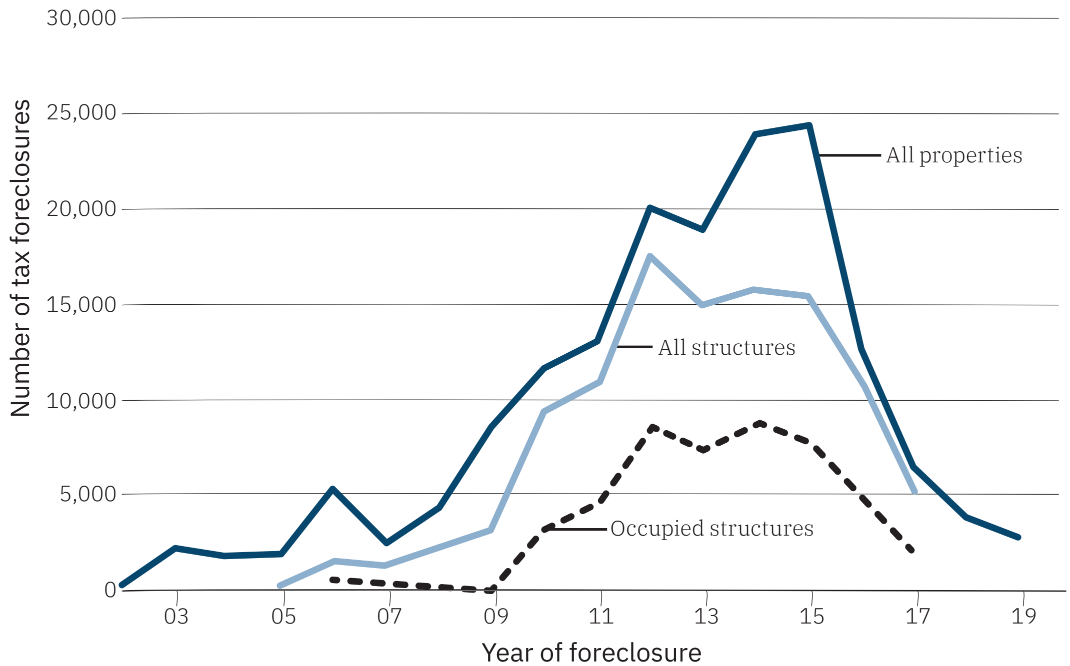
Although Detroit has suffered a more extreme decline in population, households, and jobs than most cities, the extent of the challenges in implementing and preventing tax foreclosure in the context of weak demand for property serves to expose, more clearly than in less affected cities, the difficulties in preventing harm to owner occupants and renters and to properties. This suggests what may occur in other housing markets with high poverty rates and similar tax foreclosure law and prevention measures. The following sections analyze what led to increased tax foreclosures from 2002 through 2015; describe the results of efforts to reduce tax foreclosures following 2015; and suggest reasons that tax foreclosures remain an important threat to low-income homeownership, renters' housing stability, and disinvestment prevention.

The Tax Foreclosure Problem

Detroit has endured chronic population and housing loss. Population fell 64 percent from 1950 through 2019, and, as the supply of housing slowly adjusted, the city lost 35 percent of its housing units from the peak number of units in 1960 through 2019. Disinvestment and property abandonment were thus inevitable as housing supply fell in response to the drop in demand. Decline led to budget crises as city revenues and federal and state intergovernmental transfers fell (Bomey and Gallagher, 2013). The population that experienced this change became poorer and predominantly nonwhite (U.S. Bureau of the Census 1952, 1962, 2019).

The rise in tax foreclosures after 2007, however, occurred in the context of acute crises for city residents and the city government, as mortgage foreclosures and the deep recession ran their course. From 2005 through 2014, total mortgage foreclosures exceeded 78,000, about 28 percent of houses that could have received mortgage financing (Deng et al., 2018, p. 154). Property values fell by 87 percent from 2003 through 2009 and then began a slow recovery (Detroit Board of Realtors, 2003–2014). Median household income stood at about $29,500 in 1999 and had fallen to less than $26,000 in nominal dollars by 2015. The poverty rate peaked at 42.3 percent in 2012 (U.S. Bureau of the Census, 2000, 2012, 2015).

Figure 2. Number of Tax Foreclosures by Year, 2002-2019*



*Missing data for all structures: 2002-2004, 2018-2019; for occupied structures: 2002-2005, 2008, 2018-2019.
Source: All tax foreclosures: Data Driven Detroit, 2020; all structures and occupied structures: Wayne County Treasurer, 2018.

By the time the city declared bankruptcy in 2013, the government had delivered few city services for a long time. Even fire and police services were inadequate (Bomey, 2017).

Tax foreclosures on all types of properties rose from 189 in 2002 to a peak of more than 24,400 in 2015 (Figure 2). The share of tax foreclosed properties that had structures ranged from a low of 26 percent in 2006 to a high of 95 percent in 2012. Less reliable estimates showed that, in most years, more than one-third of the structures were occupied, with a high of 56 percent occupied in 2014. Many who lost properties to tax foreclosure were owner occupants. In 2002 and 2003, about 28 percent of foreclosed residential properties with structures were likely owner occupied; this number had risen to about 40 percent in 2012, suggesting that the scale of foreclosures had overwhelmed the efforts of nonprofit organizations and the county treasurer's office to prevent foreclosure of owner-occupied properties (Dewar, Seymour, and Druță 2015, pp. 596, 597). The Neighbor to Neighbor project (a partnership of the Quicken Loans Community Fund, neighborhood organizations, and a nonprofit organization that leads efforts to prevent and address loss of homes to tax foreclosure) reported that 74 percent of occupied residential structures in the 2014 tax foreclosure auction were owner occupied (Neighbor to Neighbor 2020, p. 9). Renters felt the effects of tax foreclosure as well when their homes went into foreclosure.

The process of handling properties following tax foreclosure added to the problems facing residents, neighborhoods, and city officials. Each March, city officials forward delinquent taxes from the previous year, fees, and interest to the Wayne County treasurer for collection. Interest initially accrues at a rate of 12 percent per year, then increases to 18 percent in the second year of delinquency and applies retroactively to the previous year (Michigan Compiled Laws 211.78a, 78g). If the property owner does not pay the bill, the treasurer forecloses on the property after two additional years. For the next few months the state, city, and county governments have the right to purchase properties from the treasurer for the amount of taxes, fees, and interest owed to other public entities.[1] The county treasurer then offers the remaining foreclosed properties at a first auction where the minimum bid is the sum of delinquent taxes, fees, and interest. If a property does not sell, the treasurer offers it at a second auction where the starting bid is an amount that reflects the costs of organizing the sale, traditionally $500 (Michigan Compiled Laws 211.78m). From 2002 through 2018, about 56 percent of foreclosed properties did not sell even at this low price (Neighbor to Neighbor, 2019, p. 10; Dewar, Seymour, and Druță, 2015, p. 592; Data Driven Detroit, 2020).[2] The county treasurer then transferred unsold properties to the City of Detroit, and they eventually became part of the Detroit Land Bank Authority's inventory.

From 2002 on, investors (owners—whether for profit or nonprofit—who did not occupy their property) purchased the majority of all properties sold at the auctions. From 2005 through 2015, investors purchased 88 percent of these properties (Akers and Seymour, 2018, p. 133). About 7 percent of the residential properties that investors purchased at the tax auction between 2009 and 2014 had been demolished at public expense by mid-2019 (Akers and Seymour, 2019, p. 29). Taking advantage of a loophole in the law, some investors did not pay their tax bills and allowed their properties to go into tax foreclosure again. They repurchased their properties at the second auction under the names of relatives or different corporations for less than they had owed in taxes, a process some repeated numerous times. An investigative reporter identified 200 out of nearly 3700 total properties sold at the auction in 2010 that were bought back by their investor owners (MacDonald, 2011c, 2017). State law gave county treasurers the authority to forbid the sale of properties to owners who had tax delinquency, but the Wayne County treasurer could not enforce this provision. His office lacked the staff to investigate who the owners were and whether they had previously lost property to tax foreclosure (MacDonald, 2011a, 2013b).

A share of the investors were "bulk buyers." Eleven bulk buyers, defined as purchasing more than 80 properties at the auctions from 2002 through 2010, bought 24 percent of all properties sold, the great majority of these for $500 each at the second auction (Coenen et al., 2011, p. 67). From 2005 through 2015, 40 percent of properties sold at the tax auctions went to investors who bought at least 50 properties (Akers and Seymour, 2018, p.133). These large investors had varied business models (Mallach, 2010; Coenen et al., 2011; Akers and Seymour, 2018). A few invested in repairs and then resold the properties at a profit with a positive effect on the properties and their neighborhoods, but many advanced disinvestment in the city's housing stock. The most destructive became notorious as "milkers," "flippers," and "obstructionists." Milkers purchased residential properties in poor condition, rented them or sold them through land contracts without improvements, and thus continued disinvestment (MacDonald, 2011b; Gross 2018b, 2018c, Mallach, 2010, p. 10). Flippers resold houses for higher prices within a year of the auction if they could, often without additional investment. If properties did not sell, flippers frequently opted not to pay taxes and to let properties go back into tax foreclosure. Obstructionists purchased properties to get in the way of planned or potential development to profit by selling at very high prices or to preserve their own businesses' market control. They, too, did not invest in property improvements (Coenen et al., 2011; Dewar, 2015).

Research on neighborhood change has shown that higher rates of homeownership are associated with better property maintenance, longer tenure, and more engagement with efforts to maintain and strengthen neighborhoods (for example, Galster, 1987; Rohe and Stewart, 1996). Research on sales of tax liens or of foreclosed properties has concluded that bulk buyers dominate the purchases (Olson and Lachman, 1976; Lake, 1979). Many then increase their income by not paying property taxes (Alexander, 2000, p. 749; Olson and Lachman, 1976). The implication of the research is that the Wayne County treasurer should preserve owner occupancy and avoid sales to irresponsible landlords in order to preserve neighborhoods and deter disinvestment. The tax auctions do not accomplish this.

Reasons tax foreclosures rose

The rise in tax foreclosures from 2002 to a peak in 2015 had several explanations. Loss of income and increases in poverty and unemployment meant that many owner occupants who could pay their taxes in the past no longer could do so. Journalists and others described numerous households that lost their homes as their financial situations worsened or that struggled to untangle ownership issues common in a low-value housing market (for instance, failure to take property through probate, delinquent tax bills undisclosed at recent purchase, and land contract purchases that were not recorded) (Gopal, 2015; Gross, 2017; Alvarez, 2018; Neighbor to Neighbor, 2019). Further, in the neighborhoods where mortgage and tax foreclosures were common, tax foreclosure became a way out of ownership as owners faced difficulty finding any purchaser. Directors of community development organizations could not accept gifts of such houses because they could not obtain grants large enough to cover the difference between the cost of rehabilitation and the eventual sale price (personal communication, executive director of a Community Development Corporation January 2015).

As property values fell, the City of Detroit assessor too slowly adjusted the assessed values downward. Therefore, owners received tax bills that grew as a percentage of their property's market value (MacDonald, 2013a). This problem was especially acute for low-value properties. Property tax assessments were regressive; the assessment ratio (assessed value/market value) was higher for lower-value properties than for higher-value ones as of 2010 (Hodge et al., 2017). The assessor had few comparable sales to use in judging what the assessed value should be for lower-value properties because the majority of sales were due to mortgage foreclosures, tax foreclosures, REO sales, and land bank transfers, which did not meet the criteria for inclusion in an appraisal (Bails et al., 2015, pp. 47-49; State Tax Commission 2018, chapters 3, 4; Atuahene and Berry, 2019). The state constitution states that assessed value must be set at 50 percent of market value (Michigan Constitution, Art. IX, sec. 3). As of 2016, low-value properties that had recently sold for $1,800 to $10,000 were assessed at nearly 90 percent of their price, while the top 10 percent of properties in value, those that sold for $60,000 or more, were assessed at less than 30 percent. Nearly 90 percent of properties with prices in the lowest decile of sales had assessments that violated the state constitution (Center for Municipal Finance, 2020, pp. 8, 10).

The Detroit assessor's adjustment of assessed values was handicapped by operations that were "inefficient, ineffective, and lacking in some areas" (City of Detroit Office of the Auditor General, 2012, p. 3), a flawed process of transferring data to a new online system, and loss of staff due to budget cuts (City of Detroit Office of the Auditor General, 2012; Atuahene and Berry, 2019). In addition, the state's tax law meant that downward adjustments in assessments had long-lasting effects if they also resulted in a reduction in taxable values, a situation that incentivized assessors to avoid reducing assessments. A property's annual taxable value increase was limited to the lesser of 5 percent or the rate of inflation until the property was sold; taxable value was set equal to assessed value after sale (State Tax Commission, 2018, chapter 8). In addition, the constitution limited the annual increase in a jurisdiction's tax revenue growth to the inflation rate; as total assessed value rose, millage rates had to decrease to keep from exceeding the limit in revenue growth (State Tax Commission, 2018, chapter 1; Michigan Constitution, Art. IX, sec. 31). A suburban county executive estimated in 2011 that, owing to the restrictions, the county would not regain its 2007 taxable value until 2025 even if the housing market recovered within a few years (French, 2010; Haglund, 2011).

Further, the city government's failure to provide basic public services undermined owners' willingness to pay their property tax bills. As of early 2013, owners of 47 percent of Detroit's taxable properties had not paid their taxes in 2012, amounting to about $131 million due the city government, equal to 12 percent of the general fund budget (MacDonald and Wilkinson, 2013). This was not a new problem, although it had become more extreme. In 2003, city officials reported that a third of properties were tax delinquent (Collins, 2003, p. 10). By 2013, many taxpayers expressed outrage at the expectation that they should pay their high property taxes when the city government provided so few public services. As the authors of one study stated, the widespread tax delinquency reflected a "social contract in crisis" (Alm et al., 2014).

State law provided ways in which government officials could relieve the property tax burden for owner occupants (Grove, 2007). The Wayne County treasurer, however, was slow to publicize these provisions or to articulate a clear set of tax foreclosure prevention measures, even as other counties did so (Catherine Town, foreclosure prevention officer, Genesee County, interview with the author, June 26, 2006). The Detroit city assessor in turn did not publicize the state-mandated poverty tax exemption sufficiently and put in place a complex and difficult application process (Bails et al., 2015, pp. 50, 52; MorningSide Community Organization v. Sabree, 2016). The exemption allowed those with very low household incomes to gain a full or partial exemption from their property taxes for the coming year.[3] This meant that by 2015, thousands of owner occupants had lost their homes because of bills they never should have received.

Reasons for the decline in tax foreclosures after 2015

The rise in tax foreclosures galvanized many to try to stop the flood of foreclosures. Thousands of residents and other volunteers worked through neighborhood, community development, and nonprofit organizations. Also joining efforts to reduce tax foreclosures were advocacy coalitions, legal aid organizations, investigative reporters, opinion page writers, the NAACP, United Way, university faculty and students, philanthropies, the Center for Community Progress (a national nonprofit organization that addresses vacant and abandoned properties), the CEO of a technology company, the mayor, City Council members, and some state legislators.

The number of tax foreclosures declined sharply after 2015 (Figure 2). An important reason was that the economy recovered somewhat, although never to the level that preceded the onslaught of mortgage foreclosures and the financial crisis. As unemployment and poverty rates declined, more owners had the resources to pay their taxes or reasons to keep their properties. In addition, the City of Detroit came out of bankruptcy in late 2014 with restructured finances, meaning that more funding could go to city services. Mayor Mike Duggan, with a strong background in the management of large public and nonprofit institutions, and his administration made considerable progress in improving city services. In early 2014, he announced cuts in property tax assessments of 5 to 20 percent immediately, to be followed by a full reassessment of properties over several years (Nichols, 2014). The first comprehensive reassessment in 60 years was completed in 2017, with 53 percent of properties' tax assessments lowered further, although others experienced a small increase. The mayor attributed the higher rate of payment of property tax bills—expected to reach 82 percent that year—to this change (Helms, 2017).

The enormous efforts of many residents and people in government, nonprofit organizations, and the private sector accounted for the rest of the reduction. The discussion below describes several of these approaches, their help in reducing the numbers, and the challenges that remain.

From the beginning of the implementation of the new tax foreclosure law, owners could apply to delay payments or receive relief (Grove, 2007). As tax foreclosures rose, city and county officials and legislators sought short-term measures to help owner occupants avoid foreclosure. In 2014, Mayor Duggan asked the legislature to give county treasurers the right to implement new types of tax payment plans. The new provisions, enacted in early 2015, allowed homeowners to enroll in plans to pay delinquent taxes over the next five years with, under one alternative, the interest rate on the debt reduced from 18 percent to 6 percent per year or, under a second alternative, the total of delinquent taxes, fees, and interest capped at one-fourth of the property's market value (Michigan Public Act 499 of 2014; Michigan Public Act 500 of 2014). The cap on the amount of debt expired in June 2016 with little implementation by the Wayne County treasurer. The payment plans with interest reduction, however, enabled the treasurer to prevent tens of thousands of owner-occupied properties from going into tax foreclosure and likely contributed more than any other factor to the decline in foreclosures. Prior to the 2016 auction, 23,000 owner occupants enrolled in payment plans. In 2015 more than 9,100 occupied homes had faced foreclosure, and by 2019, this number was down to about 500 (MacDonald, 2016a; MacDonald and Betancourt, 2019).

By 2019, however, nearly 40 percent of the households that had enrolled in payment plans had been foreclosed or faced foreclosure in the coming year. Almost one-fourth of the households on payment plans owed more than they had when they initially enrolled (MacDonald and Betancourt, 2019). This set up many more households to lose their properties to tax foreclosure when they did not complete payment of their debt within the five-year payment period. Recognizing this problem and at the urging of local officials, the legislature enacted a new provision in early 2020. The Pay As You Stay (PAYS) program allowed households that received the poverty tax exemption to enroll in a payment plan for up to three years that would reduce delinquent taxes to 10 percent of the property's "taxable value" (which meant at most 5 percent of market value) and forgive interest and fees (Michigan Public Act 33 of 2020; Kaffer, 2019a).

The effectiveness of PAYS in giving low-income homeowners a chance to clear their debt will depend on the extent to which owner occupants obtain the poverty tax exemption and are able to enroll in PAYS. The treasurer's process for PAYS enrollment, launched in April 2020, was untested. The poverty tax exemption, however, required a complex annual application. From 2012 through 2016, an estimated 35,000 owner-occupied households (28 percent of the city's homeowners) were eligible for a full exemption of property taxes (Eisenberg, Mehdipanah, and Dewar, 2020, p. 1418). Each year from 2006 through 2017 between 9 and 15 percent of those eligible applied for the exemption (Atuahene, 2020, p. 158). The largest number of households approved for a full exemption was about 7,600 in 2019, approximately 22 percent of those eligible, an increase that reflected a substantial effort to reach each household with delinquent taxes, to offer application assistance from neighborhood-based organizations, and to make improvements in publicity and application processing, as discussed further below (Neighbor to Neighbor, 2020, p. 5; Eisenberg, Mehdipanah, and Dewar, 2020, p. 1418; MorningSide Community Organization v. Sabree, 2018).

Efforts to inform property owners about the poverty tax exemption and to reform it promised to help reduce owner occupants' tax foreclosures and became a focus for many working to prevent both owner occupants and renters from losing their homes. Volunteers with the Neighbor to Neighbor project visited 60,000 properties with tax delinquency to provide information on the poverty exemption, payment plans, and state programs that could provide relief to some (Neighbor to Neighbor, 2019). The Quicken Loans Community Fund supported 13 community organizations in providing monthly sessions to help property owners apply for the poverty exemption. This likely accounted for the increase of 25 percent in households approved for the exemption between 2018 and 2019 (Neighbor to Neighbor, 2020, p. 5; Biron, 2020). The increase was a notable accomplishment, but the amount of effort it required also delivered a cautionary message about whether this could provide a long-term solution to the tax foreclosure problem. As a volunteer at one of the sessions, I helped three homeowners with the application in four hours. Other volunteers backed up those meetings with property owners by checking in the people seeking assistance, downloading the form, copying documents, and notarizing the completed application. The number of volunteer person-hours required to complete one application was thus high. If one assumes conservatively that the number of volunteer hours per application was about two, then completing applications for all those eligible would have required about 80,000 volunteer hours, or 2,000 full-time work weeks of volunteer time. The amount of volunteer effort to accomplish the door-to-door visits and the poverty tax exemption workshops was essential for saving owner occupants' homes and aiding renters in the short term but was likely not sustainable as a long-term solution. If the perception of a tax foreclosure crisis eased or other crises developed, the large numbers of volunteers would become more difficult to recruit.

In 2018, the City of Detroit settled a lawsuit that the ACLU and the NAACP had brought in 2016. The plaintiffs had sued the county and the city to halt "the foreclosures and sales of all owner-occupied homes that have been improperly over-assessed," to ensure "procedural due process" for all applicants for the poverty tax exemption, and to allow those eligible to apply retroactively (MorningSide Community Organization v. Sabree, 2016, p. 3). The settlement of the lawsuit between the plaintiffs and the county treasurer, the City of Detroit, and the Detroit Citizens Board of Review (the entity within the city assessor's office that reviews applications for poverty tax exemptions) listed specific changes that the city officials would make to the administration of the exemption. The City Council followed up to codify the agreed-upon changes to the poverty tax exemption application process (Gross, 2018a).

To provide relief to low-income homeowners who had been eligible for the poverty tax exemption but had not received it from 2014 through 2017, the settlement called for the City of Detroit to use its right-of-first-refusal prior to the tax auction to purchase owner-occupied foreclosed houses where the occupant was eligible for the poverty tax exemption for specified years during the delinquency period. City officials would then transfer these properties to the United Community Housing Coalition (UCHC), a nonprofit organization long involved in efforts to prevent tax foreclosure, for sale back to the original owner occupant for $1,000 (MorningSide Community Organization v. Sabree 2018). No estimates existed for how many former owner occupants might benefit from this provision. The longer-term effectiveness of this approach will depend on how many homeowners avoid returning to tax foreclosure within a few years.

The sale back to original owner occupants was built on a model implemented in 2017 to protect renters from losing their homes because of their landlords' failureto pay property taxes and to prevent sale to exploitative investors likely to purchase the properties at the auction. The City of Detroit exercised its right-of-first-refusal to purchase 80 occupied rental properties and transferred them to the UCHC, which then sold most of these houses to the renter occupants for about $5,000 each. This program grew as a way to remediate the damage of tax foreclosures, although it did not reduce the number of foreclosures (Neighbor to Neighbor, 2020, p. 7). In 2016, the Detroit Land Bank Authority launched a program to sell land bank houses to their occupants if they had prior claims to the properties or met other specific conditions (Detroit Land Bank Authority, 2019). The land bank had gained ownership after properties failed to sell at the tax auctions.

In early 2020, investigative reporters conservatively estimated that the City of Detroit had overtaxed residential properties by $600 million prior to the full reassessment in 2017 (MacDonald and Betancourt, 2020a, 2020b). This report, along with pressure from advocacy groups, led the City Council to consider whether taxpayers who had received inflated bills could be compensated. The mayor stated that the city could not afford to compensate taxpayers and that he had done everything legally possible to address the problem since taking office six years earlier (MacDonald, 2020a, 2020b).

The efforts of many people now serve as difficult and costly work-arounds or stop-gap measures to counter the damaging effects of the tax foreclosure system. As the CEO of a parcel-mapping technology company said, "It comes down to a choice: are we a county and a city that sells grandma's house to strangers over the internet? Right now we still are" (J. Paffendorf in Gross, 2017). "Wayne County and Detroit are creating a human catastrophe by tossing thousands of homeowners into the streets for inability to pay unlawfully assessed taxes," said Michael Steinberg of the ACLU when he and others filed suit in 2016 (MacDonald, 2016b).

Why No Long-Term Solution to the Tax Foreclosure Problem?

The number of tax foreclosures has fallen substantially since the peak in 2015, but the pandemic-induced recession will likely increase tax delinquency because homeowners have lost jobs and income not only in Detroit but also elsewhere in the nation. Tax foreclosures increased across the country during and after the last recession (Rao, 2012). If long-term solutions to tax foreclosure could be implemented in Detroit, they could serve as a model for other jurisdictions facing the need to protect vulnerable people and preserve housing despite tax delinquency. Housing disinvestment inevitably occurs after a city loses substantial population and incomes fall. Public actions or failures to act, however, should not advance the loss of low-income owner occupants' housing or enable investors' extraction of profit from deteriorated structures with low-income tenants. The solutions in place thus far have lessened tax foreclosure problems, at least in the short term, but have not solved them.

Tax foreclosure problems have been difficult to solve long term for several reasons. Many possible solutions within the constraints of the law and regulations may have unforeseen harmful consequences, would deliver minimal benefits, or would cost too much. At a December 2019 meeting of many people working on addressing the tax foreclosure problem, numerous participants updated the group on specific efforts without coming up with significant, feasible reforms that could solve the problem. The meeting ended with no clear direction for what next steps to take beyond continuing efforts.

Further, county and city officials expressed concerns about fraud and the risk of lawsuits. For instance, some officials resisted making changes recommended by the Coalition for Property Tax Justice to ease the application process for the poverty tax exemption because “we were dealing with fraud,” according to the mayor’s chief of staff (Gross, 2018a). In addition, the treasurer and the mayor did not support a proposal for a retroactive poverty tax exemption to save households from foreclosure because it would be unfair to others who had already lost their homes or who had paid their taxes (MacDonald, 2018; Kaffer, 2019c).

Financial gains from the redemption of properties and from the auctions gave county officials throughout the state an incentive to oppose changes that might yield less revenue from the tax foreclosure process. As of 2017, Wayne County had added $421 million to the county government’s general fund from payments of fees, interest, and penalties and from sales of properties at the auctions since about 2007 (Kurth, Wilkinson, and Herberg, 2017). The Wayne County executive stated that the foreclosure auctions worked against healthy communities and good government, but neither he nor the treasurer had taken concerted action to transform the system (Kaffer, 2019b).[4]

Fraud and legal challenges are indeed common, and fairness matters. In 2007 an investigative reporter exposed fraud in the assessor’s Board of Review approval of poverty tax exemptions, prompting removal of some commissioners and changes in procedures (Josar, 2007a, 2007b). Both city and county officials faced severe budget problems that needed to be addressed through increased revenues and cuts in expenditures (Kurth, Wilkinson, and Herberg, 2017; Bomey, 2017; Walker, 2015).

Nevertheless, city, county, and state officials could adopt additional approaches that might offer longer-term solutions. With respect to the poverty tax exemption, for instance, they could make applications easier, thus requiring less staff and volunteer work. State law requires verification only of the applicant’s ownership and occupancy of the property and of the incomes of all those in the household (Michigan Compiled Laws Section 211.7u). The City of Detroit application has required much more information and documentation. The State Tax Commission prescribed a new form for the application in early 2021; the application, however, remains complex and allows local jurisdictions less flexibility than before (Michigan Public Act 258 of 2020; State Tax Commission, 2021). Another way to consider simplifying the application is to make it consistent with the form for claiming the Michigan Homestead Property Tax Credit, which is filed with a Michigan income tax return for low-income owners and renters to apply for a refund of the previous year’s property tax payments. Tax preparers who help those filing income tax returns might then also be able to help filers submit the similar form to the Board of Review for the poverty tax exemption.

More property owners could benefit from the poverty tax exemption if the Board of Review could approve the exemption for elderly homeowners and others on fixed low incomes for several years at a time. This change would require state legislation. Legislation passed in December 2020 allows multiyear exemptions temporarily (Michigan Public Act 253 of 2020). Local jurisdictions may allow an exemption granted in 2019 or 2020 to carry forward from 2021 through 2023 if ownership, occupancy, and income remain unchanged. They may also decide that new exemptions from 2021 through 2023 may remain for three additional years for taxpayers on fixed incomes who continue to own and occupy their property. Jurisdictions may also carry forward to 2021 any exemption granted in 2019 or 2020. Owners whose situation changes during this period and who no longer qualify for the exemption must notify the assessor. Local officials must implement an audit of those who received extended eligibility for the exemption (Michigan Compiled Laws 211.7u). The changes, put in place to deal with financial hardships and administrative challenges during the pandemic, could serve to test the viability of new measures that would reduce the burden of the annual application process in more normal times.

State law could change to make all very low-value, owner-occupied structures exempt from property taxes on the assumption that the occupants would qualify for the poverty tax exemption (see Graziani and Alexander, 2016, p. 34, for a similar idea for Baltimore’s underused Homeowner Tax Credit). Then volunteers could focus on enrolling households that met program guidelines but were left out. Officials could use algorithms to identify those who may have made a fraudulent claim and to investigate them, and they could investigate a randomly chosen list of approved properties each year to confirm their eligibility.

Other actions to prevent the ill effects of the auctions seemed possible in Detroit based on efforts elsewhere in the state. The law allows the "bundling" of properties for auction. The large number of properties in a bundle in unknown condition makes the high-priced package unattractive to bidders and prevents sale at the auction. The Wayne County treasurer had bundled properties at the request of the city administration in the past. The treasurer could bundle all occupied houses and all properties requiring demolition. After the unsold bundle became the property of the city government, the city land bank could work to sell the properties to their occupants and to other responsible owners in a more deliberate way than the auction process, as other land banks have done (Heins and Abdelazim, 2014).

If the legislature and the governor were willing to amend state law, treasurers could exercise more discretion in offering properties at auction. For instance, they could gain the right to remove owner-occupied properties from the auction or to decide whether to hold an auction. State, city, and county governments could be permitted to exercise the right of refusal to purchase properties between the first and second auctions by paying the opening bid of $500.

Conclusion

Solving Detroit's tax foreclosure problem continues to be a heavy lift. The city and county governments face many other pressing priorities and lack funds for initiatives, a significant barrier to making changes to resource-intensive tax foreclosure processes. The Detroit Land Bank lacks sufficient streams of funding and already owns around 85,000 properties; so it may have difficulty handling more (Detroit Land Bank Authority, 2020). More effort across all levels of government to find viable, long-term solutions is greatly needed and likely to yield more progress (Center for Community Progress, 2016). Such effort is vital to stop properties occupied by low-income homeowners and renters from going through tax foreclosure and auction only to result in blighted neighborhoods and vacant buildings.

Margaret Dewar *is professor emerita of urban and regional planning in the Taubman College of Architecture and Urban Planning at the University of Michigan. Her research focuses on American cities that have lost large shares of their peak population and employment and now have extensive areas of blighted buildings and vacant land. Dewar has written numerous articles on planning and policy in the context of extreme urban decline, and, with June Manning Thomas, she coedited* The City After Abandonment. *Her current research projects look at preventing evictions, reinforcing housing stability for households that go through tax foreclosure, facilitating low-income homeownership, preventing tax foreclosure, encouraging land use transitions to positive "green" uses when the highest and best use may be a dumped-on vacant lot, and analyzing physical evidence of care in neighborhoods with extensive disinvestment.*

Endnotes

[1]Michigan Public Act 255 of 2020 changed this process starting in 2021 to require these government purchasers to pay the greater of "fair market value" or the minimum bid if someone with a previous claim to the property has filed a claim for auction sale proceeds exceeding the sum of the minimum bid plus other costs.

[2] This estimate is lower than the percentage of properties in the auction that did not sell because most but not all foreclosed properties go to the auction. Owners may work out payment plans or pay delinquent taxes, and governments exercise rights to purchase between the foreclosure and the auction. Consistent data are not available to calculate the percentage of properties in the auction that were not sold.

[3] State law allowed jurisdictions to set the income level for eligibility as long as it was at least as high as the federal poverty level (Michigan Compiled Laws, 211.7u). The City of Detroit set the level higher than the federal one. For a three-person household, for instance, Detroit's 2020 income eligibility for a full poverty tax exemption was 6 percent higher than the federal poverty level (U.S. Department of Health and Human Services, 2020; City of Detroit Assessor, 2020a).

[4] A Michigan Supreme Court decision in July 2020 will reduce the funds that auctions yield for county general uses and lessen this incentive. Those who lose property to tax foreclosure will be entitled to surplus auction sale proceeds after payment of delinquent taxes, interest, and penalties (Rafaeli, LLC v. Oakland County, Michigan Supreme Court, July 17, 2020).

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About the Center for Community Progress
The mission of Center for Community Progress is to foster strong, equitable communities where vacant, abandoned, and deteriorated properties are transformed into assets for neighbors and neighborhoods. Founded in 2010, Community Progress is the leading national, nonprofit resource for urban, suburban, and rural communities seeking to address the full cycle of property revitalization. The organization fulfills its mission by nurturing strong leadership and supporting systemic reforms. Community Progress works to ensure that public, private, and community leaders have the knowledge and capacity to create and sustain change. It also works to ensure that all communities have the policies, tools, and resources they need to support the effective, equitable reuse of vacant, abandoned, and deteriorated properties.

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