



Civil Rights Groups Sue Wayne County to End Racially Discriminatory Tax Foreclosures in Detroit

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DETROIT—The ACLU of Michigan, the NAACP Legal Defense and Educational Fund, Inc. and lawyers from Covington & Burling LLP today filed a class-action lawsuit against the Wayne County Treasurer, Wayne County and the City of Detroit to challenge illegal, racially discriminatory tax foreclosures that have pummeled African-American homeowners in recent years.

“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 J. Steinberg, Legal Director of the American Civil Liberties Union of Michigan. “This short-sighted practice not only violates federal law, it destabilizes families, destroys neighborhoods and undermines the economic recovery of the region.”

The lawsuit, brought on behalf of seven Detroit homeowners and a coalition of neighborhood associations from throughout the city, alleges that the Wayne County Treasurer is preparing to seize the homes of thousands of county homeowners because they failed to pay taxes that they should never have been assessed.

Named plaintiffs in the suit are homeowners Walter Hicks, Julia Aikens, Dewhannea Fox, Edward Knapp, Robert Lewis, DeAunna Black and Spirlin Moore. The Historic Russell Woods-Sullivan Area Association, the MorningSide Community Organization, the Oakman Boulevard Community Association and Neighbors Building Brightmoor are also plaintiffs in the lawsuit, which was filed in Third Circuit Court in Wayne County.

“Wayne County’s tax foreclosures have the most severe impact on the county’s African-American community,” noted Coty Montag, Deputy Director of Litigation for the NAACP Legal Defense Fund. “Regrettably, this is the latest in a series of discriminatory housing practices in Southeast Michigan, from racially restrictive covenants and redlining through the more recent water shutoff crisis and reverse-redlining that targeted African Americans for predatory mortgages. The tax foreclosure crisis echoes the pattern of governmental housing discrimination against African Americans in the City dating back at least a century.”

Michigan homeowners must pay property taxes based on the fair market value of their homes, which cities are required to determine in annual assessments of property values. Homeowners in Detroit and other Wayne County municipalities, however, have been taxed as if their homes were worth many times their fair market value.

Most notably, the City of Detroit did not reduce property assessments to reflect precipitous declines in home values when the home values dropped precipitously in the Great Recession. Even before home prices fell dramatically in 2008, the complaint alleges that Detroit had failed to conduct meaningful property assessments.

In the last three years, 78,000 parcels were auctioned through Wayne County's tax foreclosure process. Over the last decade, about 133,000 parcels in Detroit alone have been through the foreclosure process, many more than once. By comparison, between 2005 and 2009, 67,000 Detroit residents lost their homes in the mortgage foreclosure crisis.

Plaintiffs contend that the Wayne County Treasurer's practice of foreclosing on homes despite the well-known illegal over-assessments underlying each tax debt constitutes illegal housing discrimination, in violation of the federal Fair Housing Act (FHA).

The FHA bars not only intentional housing discrimination, but also neutral practices that have an adverse disparate impact on people of color. The Wayne County Treasurer's practice has a significant disparate impact on African Americans in the county. The complaint alleges that the tax foreclosure rate in predominantly African-American neighborhoods in Wayne County is 10 to 15 times higher than the rate of foreclosures in predominantly non-African-American areas.

Plaintiffs also allege that the City of Detroit has violated the due process rights of impoverished homeowners who are entitled by law to a "poverty tax exemption," which reduces a qualified homeowner's tax burden by half or eliminates it entirely. The complaint alleges that, prior to 2016, Detroit's process for eligible homeowners to apply for the poverty exemption was convoluted, difficult, and in some cases, impossible. Many of those who succeeded in submitting a timely, complete poverty exemption application never received a response from the City regarding the decision on their application or were denied for reasons that were arbitrary and capricious.

For example, plaintiff Walter Hicks was denied a poverty exemption because another person with the same name owned a separate piece of property, which the city counted as his asset. Even when Hicks presented proof that the second property did not belong to him, Detroit refused to reconsider its decision.

Hicks, who lives on an annual income of about \$15,300, was placed in a payment plan that he cannot afford and that he should be exempted from because his income falls below the federal poverty level. "I just want to be treated fairly," said Hicks.

He added that the crisis extends far beyond his own home: "I was embarrassed to see the foreclosure notice—and then I looked down my block. Almost everyone had one."

Plaintiffs seek a preliminary and final order halting foreclosures and sales of all owner-occupied homes in Wayne County until proper and lawful taxes are assessed. In addition, the lawsuit asks the court to institute a constitutional process for eligible homeowners to obtain the Detroit poverty exemption.

Attorneys in the case are Michael Steinberg, Dan Korobkin, Mark Fancher and Kimberly Buddin-Crawford for the ACLU of Michigan; Sherrilyn Ifill, Janai Nelson, Christina Swarns, Coty Montag, Ajmel Quereshi, and Joshua Rosenthal for the NAACP Legal Defense and Educational Fund; Shankar Duraiswamy, Sarah E. Tremont, Amia L. Trigg, Jason R. Grimes, Wesley W. Wintermyer for Covington & Burling LLP.

KEY DOCUMENTS

[Complaint filed by ACLU, NAACP-LDF and Covington & Burling LLP against Wayne County, Wayne County Treasurer and City of Detroit](#)