



Announcement – Tyler v. Hennepin Court Decision

Date: 8/3/2023

To: Minnesota County Auditors and Treasurers

From: Kelly Ydstie, Assistant Director Property Tax Division

Tyler v. Hennepin County

Recently, the U.S. Supreme Court held that the plaintiff in this case, Geraldine Tyler, plausibly alleged that Hennepin County's retention of the excess value of her home above her tax debt violated the Takings Clause of the Fifth Amendment. The holding in this case indicates that a county cannot retain the "excess value" of property above tax debt. See *Tyler v. Hennepin Cnty., Minnesota*, No. 22-166, 2023 WL 3632754 (U.S. May 25, 2023).

What does this mean for Minnesota's tax forfeiture statutes?

The Tyler decision means that Minnesota's tax forfeiture statute may need to be changed. We expect legislation will be introduced in the 2024 session to address the issue. The U.S. Supreme Court held that the plaintiff had plausibly alleged that retention of the "excess" proceeds from a tax forfeiture violated the Takings Clause of the Fifth Amendment. In addition to the Tyler case, there are now two other cases in state court challenging the statutes and seeking damages. It is likely that a court will address the statutory scheme through a final order in litigation, or the Minnesota Legislature will modify the statutory scheme.

How far back does the Tyler decision go?

This is a question of law for the court to decide. This is something you should discuss with your county attorney.

May delinquent properties continue to forfeit?

Yes. Nothing in the Tyler decision impacted the forfeiture of delinquent properties. This happens automatically 60 days after Notice of Expiration of Redemption is served.

May tax forfeited lands continue to be sold?

The *Tyler* decision does not prevent the sale of tax forfeited lands. However, until the Tyler case is finally adjudicated – or legislation is enacted to make changes to the tax forfeiture laws – counties should consider suspending tax forfeited land sales, or escrowing the net proceeds after the county is reimbursed for its costs. This is something you should discuss with your county attorney.

May county auditors continue to make disbursements under Minnesota Statute 282.08?

If sales of tax forfeited lands are necessary, the net proceeds may be determined to be “excess value.” If there are net proceeds after the county is reimbursed for its costs, it may need to be paid out to a prior owner. Counties should consider the possibility of needing to use reserves or to levy for the amount that is paid out before the case is finally adjudicated, or legislation is enacted. You should discuss this with your county attorney.

What about deeds?

The department is required to issue deeds under the tax forfeiture statutes and nothing in Tyler impacts that responsibility. When a jurisdiction applies for a deed, we have a duty to issue the deed in a reasonable amount of time.

What is the Department of Revenue doing?

The department expects legislation to address the issue will be introduced in the 2024 legislative session. We are currently holding listening sessions with county auditor-treasurer offices to better understand county perspectives and the impacts potential changes to the tax forfeiture scheme may have. The listening sessions are not recorded but notes are being taken and will be shared with participants.

What is next?

The department will continue to communicate with your offices as the situation develops. We encourage you to contact your county attorney with any specific questions.

Questions?

Please email us at PropTax.Admin@state.mn.us with questions about this announcement.