Narrowing the Reach of Tyler v. Hennepin County: Lessons from Metro T. Properties, LLC v. County of Wayne

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In February, the United States District Court for the Eastern District of Michigan issued its opinion in *Metro T. Properties, LLC v. County of Wayne*, No. 2:23-cv-11457-LVP-KGA, 2024 WL 644515 (E.D. Mich. Feb. 15, 2024). Few outside of Michigan likely reviewed the case upholding the constitutionality of Michigan's General Property Tax Act ("GPTA"). Yet the implications for tax lien investors extend beyond Michigan because the opinion sheds light on the potential limitations of the Supreme Court's decision in *Tyler v. Hennepin County*, No. 22-166 (May 25, 2023).[1]

As we discussed last year as guests on an episode of the Tax Sale Resources Podcast focused on the fallout of the *Tyler* case, our team identified Michigan as a state to watch because its courts were some of the first to interpret *Tyler*. This article explores how the reasoning in *Metro T. Properties* could be leveraged to confine the impact of *Tyler* to Minnesota alone, offering a nuanced perspective on the broader applicability of the Supreme Court's ruling to tax foreclosure statutes in other jurisdictions.

Background

Metro T. Properties, LLC owned 9592 Minock Street in Detroit, but failed to pay its 2019 property taxes of roughly $1,019.00. To collect the delinquent taxes, the local government issued a Certificate of Forfeiture, prompting a series of mailed and posted notices under the GPTA (as amended in 2020). Metro claimed it did not receive the notices, potentially due to its agents failing to update their address with the local government.

In March 2022, the county treasurer secured a Judgment of Foreclosure against the delinquent taxpayer through state-court proceedings. The judgment ordered that if the tax delinquency remained unaddressed for 21 days, title to the property would vest in the Wayne County Treasurer. Unsuccessful in curing the delinquency, the property was then auctioned publicly, ultimately selling for roughly $21,000. The delinquent taxpayer claimed this amount was below the fair market value of the property.

Relevant here, though, this bid exceeded the outstanding tax delinquency, raising questions about the distribution of the surplus proceeds. Under the GTPA (as amended effective December 27, 2020), the delinquent taxpayer was required to submit a form to the local government by July 1st following the foreclosure. The delinquent taxpayer failed to file this form, so the county did not distribute the surplus proceeds. The delinquent taxpayer argued this was a constitutional violation following *Tyler*.

The District Court's Opinion

1. **The Impact of *Rafaeli* and *Hall***

The District Court first examined the Michigan Supreme Court's opinion in Rafaeli, LLC v. Oakland County (2020), which held that prior state law allowing local governments to retain surplus proceeds was an unlawful taking and that former property owners were entitled to a return of the surplus.

The District Court explained that Rafaeli prompted the amendments to the GTPA impacting the distribution of the surplus proceeds the delinquent taxpayer sought. Unlike prior law, the 2020 amendments created an exclusive mechanism for property owners to claim surplus proceeds. That exclusive process requires a delinquent taxpayer to file a standardized form with the government entity by July 1st of the year in which the tax sale occurs and then requires the delinquent taxpayer to file a motion with the state court to claim the proceeds.

Against the backdrop of these 2020 amendments to the GTPA, the District Court then analyzed the impact of the Sixth Circuit's prior decision in *Hall v. Meisner*, 51 F4th 185, 196 (6th Cir. 2022). Though the Sixth Circuit's opinion was issued after the 2020 amendments, the decision applied the 2018 version of the GTPA, so it did not control the case before the District Court.

2. **Delinquent Taxpayer's Surplus-Funds Claim**

The court then turned its attention to the specifics of the delinquent taxpayer's case. Importantly, the delinquent taxpayer did not claim that the county failed to give it notice of the tax sale or the mechanism by which it could claim the surplus proceeds. Instead, the delinquent taxpayer conceded it did not give the notice because one of its agents failed to update its mailing address with the local government. Thus, the delinquent taxpayer missed the deadlines to submit the standardized form and then failed to timely file its motion for the surplus funds.

The District Court concluded the delinquent taxpayer's failure to follow the statutory procedure was a failure to its surplus funds claim.

3. **Amount of the Surplus Proceeds**

The delinquent taxpayer additionally argued that the amount of the bid caused the surplus proceeds to be unconstitutionally low given the value of the property. This is the same issue that the United States Supreme Court left open in *Tyler*. Indeed, much of the Supreme Court's oral argument was devoted to this issue, with Justice Sotomayor explaining that if the court waded into the issue it would be "throwing a bomb into 240, 50 years of history with respect to delinquent taxes and sales …" Thus, the court remanded the issue for another court to determine how to calculate the just compensation and, for tax sales that have already occurred, who must pay that just compensation.

The District Court similarly sidestepped this issue, rejecting the delinquent taxpayer's valuation claim in a footnote, relying on the Michigan Supreme Court's opinion in *Rafaeli*, which "reject[ed] the premise that just compensation requires that [former property owners] be awarded the fair market value of their properties so as to be put in as good of position had their properties not been taken at all." For similar reasons, the District Court also relied on the Sixth Circuit's opinion in *Freed v. Thomas*, 81 F.4th 655 (2023), indicating that "the best evidence of a foreclosed property's value is the property's sale price, not what it was worth before the foreclosure." Therefore, the District Court's decision leaves, for another day, the vexing question of the proper valuation for just compensation purposes, which is linked to the excess fines question also left open by the Supreme Court in *Tyler*.

Limiting the Impact of *Tyler v. Hennepin County*

In the context of the broader tax lien investment landscape, the *Metro T. Properties* decision prompts a reevaluation of the reach of *Tyler v. Hennepin County*. While *Tyler* garnered attention for challenging surplus proceeds retention, the District Court's opinion offers insight into an argument that could confine *Tyler's* impact solely to tax-forfeiture schemes like existed in Minnesota.

The United States Supreme Court's prior opinion in *Nelson v. City of New York* provides the key for limiting the impact of Tyler. As the District Court there explained:

- In *Nelson*, property owners failed to pay water charges, resulting in tax liens. *Id.* at 105-06. The city began foreclosure proceedings and sent the required notices of foreclosure to the owners, but the owners failed to redeem the properties. *Id*. at 105-06. The properties were then sold, although not through a public foreclosure sale. *Id.* at 106. The former property owners claimed the city's retention of the surplus sale proceeds deprived them of their property without due process of law. *Id.* at 109.

The Supreme Court rejected their claim because New York's statute provided a mechanism for property owners to trigger a public foreclosure sale and claim any surplus proceeds. All the property owners had to do was file a simple form with the county. As the Sixth Circuit explains in interpreting *Nelson*, The "express basis for the decision ... was that the plaintiffs had not taken any 'timely action' to force a public foreclosure sale and 'to recover any surplus,' even though the New York Statute expressly gave them opportunity to do so." *Hall v. Meisner*, 51 F.4th 185, 196 (6th Cir. 2022).

The District Court concluded that the Michigan legislature's amendment of the GTPA in 2020 to include an express statutory mechanism for claiming surplus funds meant that the case was more akin to *Nelson* than it was to *Tyler or Hall.* Thus, the District Court rejected the delinquent taxpayer's constitutional challenge to Michigan's statutory scheme and held that the delinquent taxpayer had forfeited its right to the surplus proceeds by failing to follow the statutory process.

The District Court's analysis draws attention to legal distinctions between cases like *Nelson* and *Tyler*, emphasizing the presence of statutory avenues for claiming surplus proceeds is all that is constitutionally required. That process need not be perfect or even taxpayer-friendly — some statutory process to claim the surplus must merely exist to satisfy the Supreme Court's standard in *Tyler*. By underscoring these distinctions, the court in *Metro T. Properties* introduces a legal rationale that may limit the application of *Tyler* to the specific circumstances in Minnesota.

Two other points that help to limit the application of *Tyler* in future cases are illustrated by the District Court's opinion in *Metro T. Properties*:

1. **Jurisdiction-Specific Statutory Frameworks**: The District Court highlighted the significance of Michigan's specific statutory amendments, creating an exclusive mechanism for claiming surplus proceeds. By emphasizing the jurisdiction-specific nature of these amendments, the decision suggests that *Tyler's* applicability may be confined to Minnesota's unique legal landscape.
2. **Legislative Responses to Legal Challenges**: The response of Michigan's legislature to the *Rafaeli* decision, amending the GPTA to align with constitutional requirements, showcases a proactive approach to address legal challenges. This legislative response provides a roadmap for other states to tailor their statutory frameworks, potentially limiting the need for broad judicial intervention.

Conclusion

As tax lien investors navigate the intricate legal terrain of property tax delinquency and foreclosure, the *Metro T. Properties, LLC v. County of Wayne* decision offers insights that extend beyond Michigan. By emphasizing the importance of jurisdiction-specific statutory frameworks and legislative responses to legal challenges, the reasoning in *Metro T. Properties* raises questions about the broad applicability of *Tyler v. Hennepin County*.[2] As the tax lien investment industry evolves, stakeholders should stay vigilant, considering the nuances introduced by state-specific legal developments to navigate the complexities of tax foreclosures.

[1] See our additional client alert about the Supreme Court’s opinion here.

[2] The importance of considering the statutory framework for the states when considering the property rights issues addressed by *Tyler* was previously raised in the Brief of Amici Curiae National Tax Lien Association, the Arizona County Treasurers Association, and the Tax Collectors & Treasurers Association of New Jersey in Support of Respondents filed in the *Tyler* case before the Supreme Court of the United States. The Associations’ amicus brief is available here.

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