

## **New York State Legislature 2020 Joint Budget Hearing**

Thank you for the opportunity to submit testimony for the Legislative Joint Budget Hearing on Taxes. The Western New York Law Center has been providing free representation to homeowners in Western New York facing foreclosure since the 1990s. Our office also contracts with several municipalities in Western New York to assist them with addressing vacant and abandoned properties, or zombie properties and we have a County-wide grant in Erie County to represent municipalities in addressing vacant and abandoned properties. I personally have been working at the Law Center for the last ten years on these issues.

First, I would like to address the plan in the Executive Budget to remove homeowners who are delinquent on their property taxes from the STAR exemption programs. At the Law Center, we have represented homeowners that are facing tax foreclosure for years and we believe this proposal will have many unintended consequences for the communities we represent. We oppose the inclusion of this proposal in the New York State budget for the following reasons:

- Denying homeowners their STAR exemptions will increase their tax bills and make it harder for them to get current and save their homes
- Interest on back taxes across NYS varies between 12% and 18% depending on the county and the increased tax bills will force homeowners to pay more in interest to get current
- The increased tax bills and subsequent interest will strip generational wealth from low income communities through the removal of equity from homes
- The proposal will negatively impact vulnerable populations on fixed incomes like the elderly, people with disabilities, and low income homeowners
- Homeowners with Reverse Mortgages will be impacted greatly and the removal of the STAR exemption will make it more difficult for them to save their homes
- Eliminating the STAR exemption for struggling homeowners will harm homeownership rates in low income communities

- Many tax delinquent properties become vacant and a burden on local governments. By making it more difficult for homeowners to cure their tax delinquencies, the result could be an increase in abandoned and vacant properties.

The majority of the time, a homeowner does not fall behind on taxes by choice. These are examples of the people and their situations our office has recently assisted:

- Fred E. fell behind on his property taxes when he became blind and was no longer able to work. He applied for social security but it took a long time to start receiving funds and he was unable to keep up with his expenses in the meantime.
- Nicole S. fell behind on her property taxes when she was unable to work for over a year due to serious physical and mental disabilities. She applied for social security but could not pay her property taxes while she waited for her eligibility determination.
- Tiffany K. fell behind on her property taxes when she was injured at work and required multiple surgeries. She did not receive enough income to pay her expenses.
- Beverly M. purchased her property with taxes already owing on it, which she did not realize. She was unable to catch up right away, as she was only living off a widow's pension and food stamps and suffered a family tragedy when two of her family members were shot and she had to pay funeral expenses.
- Alexander S., a single parent of three young children, fell behind on his property taxes when he was injured and was unable to work for a period of time.
- Clarence S. fell behind on his property taxes when he was diagnosed with cancer and incurred huge medical expenses.

Denying the STAR exemption to people who have fallen behind in their taxes through no fault of their own will just ensure that they will never be able to catch up on their delinquent tax payments.

We believe that NYS should take steps to deny the STAR exemption to properties that are vacant and abandoned. The proposal in the Executive Budget would require localities to report tax delinquents to the Department of Taxation and Finance so that a STAR credit or exemption can be withheld. Banks and

mortgage servicers are required to report vacant and abandoned properties to the Department of Financial Services (DFS). DFS should be asked to report vacant and abandoned properties to the Department of Taxation and Finance. Vacant properties are not eligible for the STAR exemption, and the STAR exemption, which is often automatically applied to a tax bill year after year if a property and homeowner are eligible, should not be automatically applied to properties that are not eligible.

Second, the issue of interest on back taxes is one that directly impacts our client's abilities to get current after falling behind. In Erie County, many taxpayers fall behind on their property taxes because of medical emergencies, temporary unemployment, and other issues. Unfortunately, once taxpayers fall behind on property taxes, they have a hard time catching up because they are charged 18% interest on the back taxes. The authority for this charge is found in the New York Consolidated Laws, Real Property Tax Law - RPT § 924a - *Interest rate on late payment of taxes and delinquencies*. That section applies the interest rate set by the NYS Commissioner of Taxation and Finance to property taxes and provides an exception only to a County that has authorized the collection of property taxes in installments. Erie County does not allow the collection of taxes in installments. Doing so would raise issues of short term borrowing and cause other financial problems.

Because of the high interest rate on unpaid property taxes, once a homeowner falls behind on his or her taxes, interest quickly becomes a major part of the tax bill. The interest rate of 18% on unpaid property taxes may have been appropriate in the 1980s when home mortgages were in the double digits, but with mortgage interest rates at historic lows, an 18% interest rate on unpaid back taxes for someone on a limited income who falls behind on property taxes is just a guarantee that the taxpayer will become homeless.

The Law Center requests that this legislative body consider reducing the cap and lowering the floor for interest rates on back taxes.

Third, the New York State Tax Act allows for a county or municipality foreclosing on a property for back taxes to take title to the property prior to auction. When this is done in a large part of the state, the municipality or county often keeps the surplus, any money raised from the auction above what is owed in taxes and fees, and the homeowner is left with nothing. We have seen cases locally where municipalities have sold properties for \$5,000 in back taxes, sell the property for \$50,000, and keep the additional \$45,000. This practice is unjust and robs communities of earned equity in their homes. This practice is particularly common in low income and rural areas. This form of equity theft has been tolerated for far too long and it is time that this practice be banned and replaced to

notice requirements to ensure surplus funds are returned to the families that have earned that equity.

Thank you for your time and attention. I am happy to answer any questions you may have.

Regards,

Kate Lockhart  
Vacant & Abandoned Property Program Director  
Western New York Law Center, Inc.