

Property Tax

Implications of *Tyler v. Hennepin County*

House Committee on Revenue

LRO | February 12, 2024

State of Oregon

LEGISLATIVE REVENUE OFFICE





Presentation Outline

- Background
- Recent U.S. Supreme Court Decision
- LC Holding and Reflections
- Current Policy in Oregon
- Lawsuits in Oregon
- Recent Policy Committee Discussion





Background

- Geraldine Tyler owed \$15,000 in property taxes, interest and penalties on a condominium she owned in Minneapolis.
- To collect the debt, Hennepin County placed her home in foreclosure, sold it for \$40,000 and, under Minnesota Law, did not pay her the \$25,000 surplus.





Recent U.S. Supreme Court Decision

- Tyler claimed her rights were violated under the U.S. Constitution's 5th and 8th amendments:
 - **5th Amendment:** No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; **nor shall private property be taken for public use, without just compensation.**
 - 8th: Excessive bail shall not be required, **nor excessive fines imposed**, nor cruel and unusual punishments inflicted.
- After Tyler lost in the district court and 8th Circuit, Tyler's case made it to the U.S. Supreme Court. *Tyler v. Hennepin County* (598 U.S. 631) was decided in U.S. Supreme Court on May 25, 2023.
- Unanimous, 9-0 decision in favor of Tyler:
 - Chief Justice Roberts delivered the opinion.
 - Gorsuch and Jackson filed a concurring opinion.





LC Holding and Reflections

- Government may not take more property than its owed
 - But *Nelson v. City of New York*, 382 U.S. 103 (1956) is still good law
 - No specific requirements on county announced
- Not paying taxes alone is not abandoning property
- Federal courts maybe should be more skeptical of state property law
- Concurrence:
 - Economic penalties imposed to deter noncompliance are fines as well as takings





Current policy in Oregon

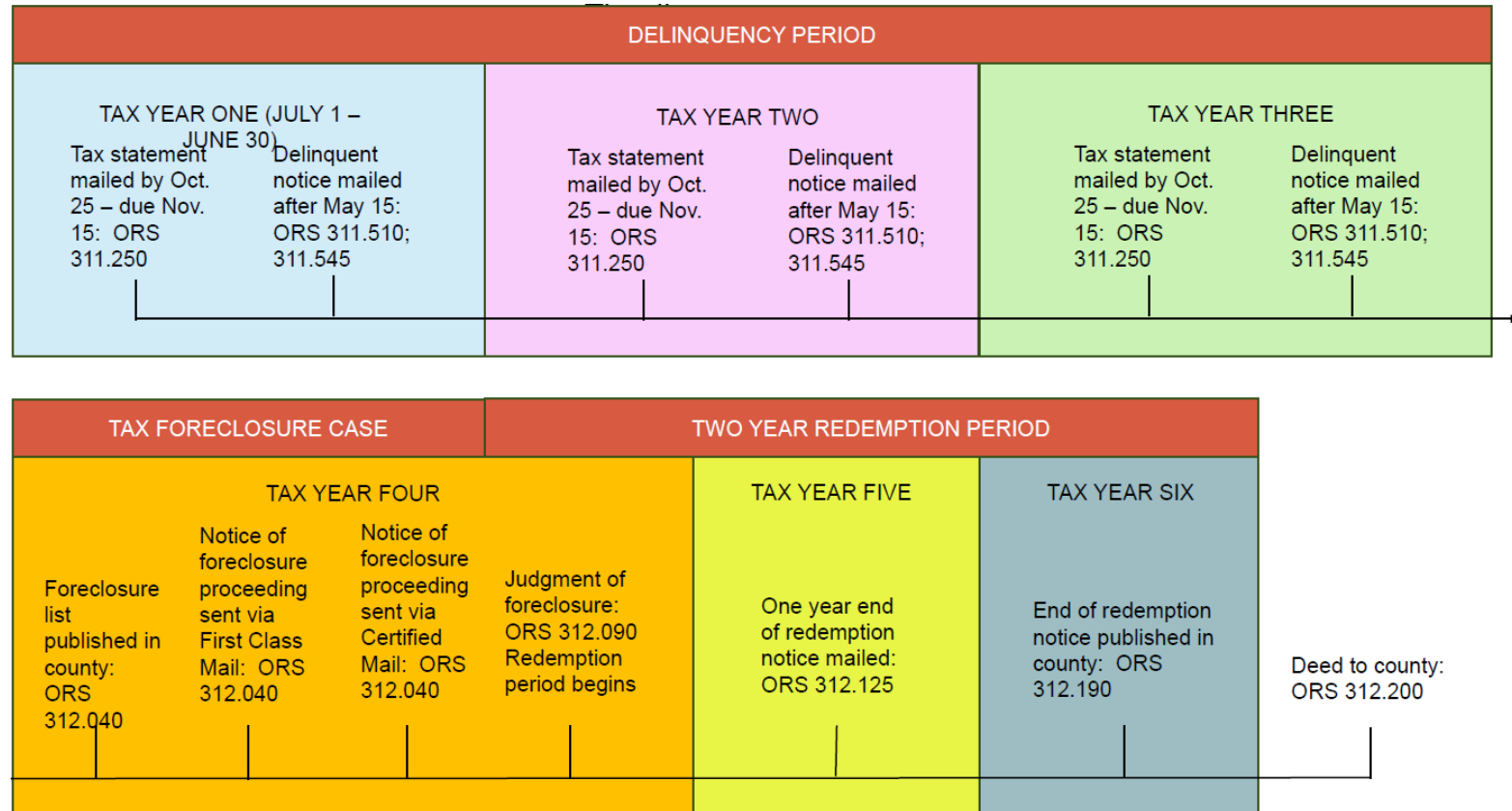
- Counties are not required to return to the former property owner any surplus of a property tax foreclosure.
- After a county reimburses itself for allowable costs, the county may elect to distribute any surplus to taxing districts, including the county (ORS 275.275(1)(d)).
 - That distribution of surplus to taxing districts is mandatory for Multnomah County.
- Allowable costs under ORS 275.275 (1)(a) - (c) include:
 - Property taxes
 - Interest
 - Redemption penalty and fee
 - Property maintenance and supervision
 - Legal costs





Current Policy in Oregon (cont.)

Deeding real property to a county under ORS 312.200 is a six-year process.



Source: Meeting materials for Senate and House Interim Committees on Judiciary, January 12, 2024





Lawsuits in Oregon

- Class action lawsuits in several states following *Tyler v. Hennepin County*, including three currently in Oregon (all counties implicated).
- Multiple individual lawsuits in various counties in Oregon.





Recent Policy Committee Discussion

- On January 12, 2024, county legal counsels and property managers provided an [informational meeting](#) on *Tyler v. Hennepin County* to the Senate and House Interim Committees on Judiciary.



For More Information

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