

Marjorie,

I wanted to make some written comments that I know our office have been concerned about but has not really been discussed, and that is the potential for predatory practices used by third parties to garner claims from prior property owners. There was one meeting that I was unable to attend and therefore, and thus it is possible that this might have already been discussed, but I wanted to raise it with you again.

**The first issue here has to deal with assignment of claims.** The bulk of the claims coming in on these cases, to Washington County at least, have not been through the prior owner, or a heir or assign, instead it is coming through an LLC that was specifically been created to purchase(?) these claims from tax foreclosed individuals and request the proceeds from the County. This includes Casear's Proceeds LLC, Local Site LLC, etc. Often times the assignment is a one page document that references a separate contract that the county is unable to see. that does not does not even discuss the terms between the former owner and company. It's not clear if the former owner is receiving the bulk of the proceeds are not. Maybe, that is something the county should not be concerned about but I think that goes to the intent of the Tyler case.

I know that some states have flat out banned assignments. For instance, below is the Washington State statute on this point. Washington like Oregon is a deed state:

Under Washington (RCW 84.65.080) Law assignments are illegal: (10) If the highest amount bid for any separate unit tract or lot exceeds the minimum bid due upon the whole property included in the certificate of delinquency, the excess must be refunded, following payment of all recorded water-sewer district liens, on application therefor, to the record owner of the property. The record owner of the property is the person who held title on the date of issuance of the certificate of delinquency. *Assignments of interests, deeds, or other documents executed or recorded after filing the certificate of delinquency do not affect the payment of excess funds to the record owner.*

**Secondarily, should there be a cap on attorney awards for these cases?**

Once again under Washington Law there is a limit to how much an attorney can collect: <https://law.justia.com/codes/washington/2005/title63/63.29.350.html>. The Cap is at 5%. A violation of this statute is also a crime, which in theory could disbar an attorney.

It is unlawful for any person to seek or receive from any person or contract with any person for any fee or compensation for locating or purporting to locate any property which he knows has been reported or paid or delivered to the department of revenue pursuant to this chapter **in excess of five percent of the value thereof returned to such owner.** Any person violating this section is guilty of a misdemeanor and shall be fined not less than the amount of the fee or charge he has sought or received or contracted for, and not more than ten times such amount, or imprisoned for not more than thirty days, or both.

Recently, an attorney in Clackamas did get a copy of the contract with one of these LLC (attached). The Company takes 50% after taking out costs and attorneys fees (which we can assume are not

inconsequential on these claims). As a practical matter, after the fees are taken out it would seem the property owner is then getting just a small fraction of an award.

The first, and second issues seem to really weed out third parties essentially taking advantage of claim holders making valid claims.

**Third, Priority of Claims:** If we do allow assignments how should that affect priority of claims? It really does not seem that the counties are in the best position to determine who has what priority in claims process. Is every claim going to be interplead with the Court? That does not seem like the most efficient system either. I know that in some previous meetings, there have been some comments that we could model the process off a bank foreclosure, but Washington County Tax is rarely directly involved in bank foreclosures.

**Fourth protection/indemnification from giving the wrong claimant requested funds.** The Recording office currently receives protection from lawsuits under ORS 205.130 for recording instruments. It makes sense to me that a similar protection for counties making good faith efforts to fulfilling claims should apply. Theoretically, we could ask the party we return the funds to for indemnification, but if a party has not paid taxes in several years, it seems unlikely they are going to indemnify a county, even if there is an agreement. If we return funds based upon a claims process, it would be nice to have some protection against suit.

Thank you,

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