

## THE FINE PRINT

# Dispute over 'stolen' home equity is settled

By [Sean P. Murphy](#) Globe Staff, Updated August 25, 2022, 3:22 p.m.



Deborah Foss was evicted from her home earlier this year. PAT GREENHOUSE/GLOBE STAFF

A New Bedford woman who sued a private company after losing all the equity in her home in a tax foreclosure case has reached a settlement that will pay her \$85,000.

Deborah Foss, 67, was represented in the lawsuit by Pacific Legal Foundation, a public interest law firm that says its goal is a ban of what it calls “home equity theft.”

Only a few states, including Massachusetts, allow cities and towns — and the private

companies that buy their tax liens — to take the entire value of a property when the owner's unpaid tax bill is for a much lower amount.

Foss's lawyers said she was unfairly deprived of more than \$100,000 in equity after she failed to pay taxes on the property for several years. (She had no mortgage on it.) Under the settlement, Foss will get back most of that money.

Foss's plight was featured in a [Fine Print column](#) in the Globe in March.

The case began in 2018 when the city of New Bedford sold its tax lien on her small house to a private company, Tallage Davis LLC. As a lienholder, Tallage had the same rights as a municipality, including taking the equity.

Tallage purchased the tax lien for about \$10,000, which was the amount Foss owed at the time. Tallage later incurred more than \$100,000 in expenses, including the cost to remediate an oil spill caused by a leaking tank in the basement.

The size of Foss's debt more than tripled during the several years when Tallage was the lienholder due to her continued failure to pay taxes and a 16 percent interest rate charged on the debt.

Eventually, Tallage sold the property for \$242,000. That meant Foss lost about \$112,000 in equity: \$242,000 minus her tax debt of about \$30,000, minus the \$100,000 Tallage put into the property.

Foss, who has several chronic medical conditions and lives on less than \$1,000 a month in Social Security benefits, was evicted from her home earlier this year and wound up sleeping in her car for a period.

Pacific Legal Foundation took up her cause in the hope it would eventually get appealed to the Supreme Judicial Court — and be declared unconstitutional as a government taking without compensation.

Foundation lawyers said they are disappointed Foss's case now won't get to the SJC, but happy for Foss, who is no longer homeless.

"We're really happy for Deb, because her living situation is so much better now," said Christina M. Martin, one of the lawyers. "But we're not done in Massachusetts."

Martin said the foundation is looking for another case to pursue.

Dan Hill, a lawyer representing Tallage, said in the earlier Globe column on Foss that "we followed all the legal procedures. There were no shortcuts. It was all done legally."

Hill declined comment this week.

Last year, the Foundation also represented Mark and Neil Mucciaccio of Easton who had fallen behind on the property taxes on their house and faced a potential loss of \$255,000 in equity. Tallage was in the late stages of evicting the brothers and their families when the foundation got involved.

After the Mucciaccio case was featured in a [Globe column](#), a family member stepped forward to get a loan to pay the back taxes.

Two members of the Massachusetts House of Representatives, Jeffrey N. Roy and Tommy Vitolo, have sponsored a bill to abolish the taking of equity in tax foreclosure cases.

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