

## THE FINE PRINT

# 'Home equity theft' in Massachusetts is the focus of federal lawsuit

By [Sean P. Murphy](#) Globe Staff, Updated January 25, 2024, 11:06 a.m.



Al Norman is pictured near Stephen Woodbridge's former Greenfield property Wednesday. Norman is a community activist fighting against so-called "home equity theft," when municipalities take all the home equity in a house where the back taxes are only a fraction of the property's value. MATTHEW CAVANAUGH/FOR THE BOSTON GLOBE

In 2017, the city of Greenfield targeted Stephen Woodbridge's property, which totaled almost 20 acres and included a rambling 10-room house, for unpaid taxes of a little less than \$6,000.

Four years later, after making numerous complex and arcane court filings, the city succeeded in gaining legal ownership of a property that had been in the Woodbridge family for 70 years.

Woodbridge was quickly evicted, and the city sold his house and six surrounding acres for \$270,000 at auction. The city added Woodbridge's other 13 wooded acres to a contiguous city-owned park without compensating him.

The city reaped a tidy cash profit of at least \$220,000 — the \$270,000 sale price at auction minus the \$50,000 Woodbridge owed in taxes, interest, and other costs run up while the tax-taking case moved through the system. Woodbridge's debt had ballooned almost tenfold since 2017 because he was charged fees for the city's attorneys plus 16 percent interest on his debt — as permitted by law.

The city of Greenfield, which has an annual budget of more than \$60 million, enjoyed a tiny improvement in its finances by selling Woodbridge's property. But for Woodbridge, 62, unemployed and confused by the legal proceedings, it was devastating.

“It was the most traumatic event of my life, by far,” Woodbridge, who currently lives in subsidized housing outside Greenfield, said in an interview. “I’m still trying to recover from it.”

Now, a law firm acting on his behalf has filed a federal lawsuit claiming the city's confiscation of his equity — the value of his property minus what he owed — violated the US Constitution. The lawsuit doesn't question the city's right to sell his property, but it does dispute its right to keep his equity. The lawsuit demands hundreds of thousands of dollars in compensation.

The centerpiece of Woodbridge's lawsuit is the recent US Supreme Court case known as [Tyler v. Hennepin](#). The court ruled in a rare unanimous decision last year that

municipalities may sell a taxpayer's home to recover unpaid taxes, but they cannot "use the toehold of the tax debt to confiscate more property than was due."

The Tyler case was the successful culmination of a long legal battle waged against what critics call ["home equity theft."](#) The Supreme Court ruling is [based on the Fifth Amendment's prohibition](#) against the government taking private property without just compensation.

[Opponents of "home equity theft"](#) say municipalities should be in no better position than a bank when it is owed money on a defaulted mortgage. A bank that sells a foreclosed property is entitled only to what's owed to it, not the entire sale price. Equity in the property goes to the former owner, not the bank.



Stephen Woodbridge's former Greenfield property. MATTHEW CAVANAUGH/FOR THE BOSTON GLOBE

In most states, the confiscation of equity by municipalities is prohibited, but not in Massachusetts, where there is little guidance in the law about the rights of property

owners in such cases. Several bills to address it have languished in the Legislature.

The co-sponsor of one such bill, Senator Jo Comerford of Northampton, pledged to redouble her efforts.

“This is a priority bill for me and my colleagues in the Legislature because taking equity in these kinds of cases is a grave injustice,” she said.

The lawsuit on behalf of Woodbridge is pending before US District Judge Timothy Hillman, who is expected to soon rule whether to dismiss it, as the city’s law firm has demanded in filings. That decision may go a long way in deciding how the recent Supreme Court case should be applied in Massachusetts.

Only a couple dozen municipalities have opted to take equity in tax-taking cases, and most of them, if not all, have at least temporarily stopped doing so in the wake of the Supreme Court ruling. That ruling struck down a Minnesota law on tax foreclosures, but it didn’t apply directly to Massachusetts law.

The Supreme Court case, depending on how it is interpreted by courts in Massachusetts, could eventually force Greenfield and other municipalities to make restitution to former property owners.

Boston, Worcester, and Lawrence are among the municipalities that may be liable for seizing equity in tax takings. Statewide, the total tab for restitution could be in the millions of dollars.

“This case is on everyone’s radar because it’s potentially precedent setting,” said Michael Aleo, who said his firm is representing Woodbridge on a contingency fee basis.

One central question in Woodbridge’s lawsuit is to what extent, if any, does Massachusetts allow property owners in tax-taking cases to demand and get the equity



in their property.

Aleo said state laws governing tax takings are mostly silent on the question of equity, and that in the absence of an explicit prohibition, some municipalities have assumed the right to do so with few safeguards for property owners.

“There is no legal mechanism in Massachusetts that spells out a property owner’s rights to challenge the taking of their equity,” he said.

That’s a consideration because the Supreme Court, while striking down the Minnesota law, made favorable reference to a decades-old previous ruling that upheld a New York City foreclosure ordinance because it did not “absolutely preclude” a property owner from obtaining equity.



The US Supreme Court in Washington, D.C. KENT NISHIMURA/BLOOMBERG

In his filings, Jesse Belcher-Timme, the city of Greenfield’s lawyer, said that the

Massachusetts tax-taking law is constitutionally sound because state Land Court judges have discretion to rule against municipal attempts to take equity.

Belcher-Timme declined to comment and the office of Mayor Ginny Desorgher, who took office Jan. 2, did not respond to a request for comment.

The Massachusetts Municipal Association, which lobbies on behalf of cities and towns, has called for the creation of a special commission “to closely examine” how municipalities collect delinquent property taxes.

In a statement, the MMA said it is working with lawmakers to find “a legislative solution that clarifies practices under state law and aligns with the recent Supreme Court decision.”

Patrick Moore, first assistant attorney general, urged quick legislative action in testimony before a legislative committee, saying the current practices of some municipalities constitute “a classic unconstitutional taking.”

“The Massachusetts tax foreclosure process simply cannot be distinguished from the one the Supreme Court struck down,” he said.

The Woodbridge case is the result of city hall research conducted by Al Norman, a retired Beacon Hill lobbyist and Greenfield resident. After the Supreme Court decision, he found the names of a half dozen former property owners who had lost equity in tax-taking cases brought by the city of Greenfield.

Norman and other activists included those names in a letter to the editor published in the Greenfield Recorder asking if anyone knew how to contact those individuals.

Eventually, the activist group located Woodbridge and Roberta Browning, who lost her home after the city began proceedings against her for unpaid taxes of about \$1,580. The city sold her property for \$34,000 and kept the equity she had in it. Norman

introduced Woodbridge and Browning to the lawyers who are now representing them.

If they win in the Woodbridge case, Norman said, other lawsuits may follow against other municipalities or the private companies that sometimes purchase their tax liens.

“I think it’s unconscionable that the city would take the property of the most vulnerable among us,” he said. “We’re hoping for a breakthrough that ends it.”



Al Norman is pictured near Stephen Woodbridge’s former Greenfield property on Jan. 24. Norman is a community activist fighting against so-called “home equity theft,” when municipalities take all the home equity in a house where the back taxes are only a fraction of the property’s value. MATTHEW CAVANAUGH/FOR THE BOSTON GLOBE

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TellyFour

1/25/24 - 11:34AM

Seems like the only justified recompense for the municipality is what they are owed, nothing more. How they are entitled to the equity portion simply defies any logic and the SCOTUS seems to agree. All that would matter is that the tax debt is satisfied. If the muni can't collect promptly, then they put a tax lien on the property and when the owner sells or passes away, they can grab their back taxes before the title can be transferred to another owner. Would seem not just simple but humane, fair, and just.

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Timster

Timster

1/25/24 - 11:56AM

Isn't that how it's supposed to work? How can you seize a house worth 40X the taxes owed, bill the owner for legal fees and keep the residual amount?

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Right Thoughts

1/25/24 - 7:06PM

All tax title actions begin with a notice of foreclosure and subsequent auction of a property...the first person to offer the amount owed in taxes, legal fees, and interest gets the property - not the local government...

If no one bids on it then the title is transferred to the community after which it can again be offered for sale at some point for the then-market value...

How is that wrong?

Like (0)

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Fred217

1/25/24 - 12:23PM

Totally agree with the plaintiffs in these cases. Equity grabbing is unconscionable. If they win, they should trace foreclosures going back as far as possible.

What happens if the municipality keeps the property for their own purposes, as they also did with Woodbridge's land? That is an uncompensated taking if there ever was one. He should receive full value as of the date of foreclosure, along with interest, same as they billed him.

[Like \(36\)](#)[Dislike \(1\)](#)[Reply](#)[Report](#)[Ignore](#)**GadotG**

1/25/24 - 1:04PM

I believe Boston has already come out and said this would be an enormous bill for them.

[Like \(3\)](#)[Dislike \(1\)](#)[Reply](#)[Report](#)[Ignore](#)**jjshello**

1/25/24 - 1:26PM

If your statement is true, then that it too bad for the city of Boston. This taking of equity is a massive overreach. The Greenfield property owner owed less than \$6,000 in taxes and the city reaped the benefit of the equity in the property. Clearly that is not right. From my layman's perspective, this seems like something that should have never been allowed in the first place.

[Like \(26\)](#)[Dislike \(0\)](#)[Report](#)[Ignore](#)**veefbe**

1/25/24 - 1:16PM

Is there even a shred of fairness and justice in the "taking " of the Woodbridge property to cover taxes owed?

The town stole the Woodbridge assets. It should return what was taken and pay for all legal and incidental costs trelated to his eviction. Plus pain and suffering penalties.

Restorative justice must be fair to all involved. The town should know better than to evict a person from all of his property, then sell the property, just to get a miserable amount to pay for property tax in arears. And the town kept the rest of the proceeds too.

Legal or not, this action by the town is callous use of power.

[Like \(22\)](#)[Dislike \(0\)](#)[Reply](#)[Report](#)[Ignore](#)

**Rush Inbot**

1/25/24 - 1:24PM

If the amount of taxes owed is large enough, then yes the town should be able to seize and sell the property to collect the taxes. Obviously this should be a last resort. Putting a tax lien on the property is a much better way to ensure that the town gets what it is owed.

But no way in the world that the town should be able to keep the equity. I can't believe that it took this long for SCOTUS to rule that this was against the 5th amendment. Any armchair Boston Globe commenter can read the 5th amendment and this article, and come to the conclusion that equity theft is unconstitutional.

In this case, any equity should be returned to Mr. Norman. He needs to be punished for not paying his fair share of taxes, but not by stealing the large amount of equity in his property.

[Like \(15\)](#)[Dislike \(3\)](#)[Report](#)[Ignore](#)**Right Thoughts**

1/26/24 - 6:07AM

Why didn't the property owner leverage all that equity into a new mortgage, pay the town what it was owed, and then keep the property?

The town posted the property for auction first then - and only then after receiving no bids - did it 'take all that equity' as you tell it.

I don't think you know much about the process cities and towns go through before taking a property for back taxes.

[Like \(0\)](#)[Dislike \(6\)](#)[Report](#)[Ignore](#)



**mitrefcp5**

1/25/24 - 1:28PM

Sorry, don't feel bad for this guy. Pay your taxes! If you can't afford taxes on your mansion, then sell the mansion and downsize into a more affordable house. And at only 62, you should probably still be working if you can't afford your tax bill! Or, you shouldn't be living beyond your means. The above notes that the process took YEARS. This guy had YEARS of notice and legal proceeds to figure out how to pay his bill. He even had time to sell it himself during that period and pay back the municipality. So no, I don't feel bad for this guy.

[Like \(6\)](#)[Dislike \(43\)](#)[Reply](#)[Report](#)[Ignore](#)**moddy19**

1/25/24 - 1:46PM

Way to completely miss the point. Of course he should have paid his taxes and the town legally took the house. That's not the issue - it's that when the town sold the house they kept all the money of the sale beyond what was owed in taxes. That money should go to the former owner.

[Like \(31\)](#)[Dislike \(1\)](#)[Report](#)[Ignore](#)**ts2115**

1/25/24 - 3:52PM

Does putting this man down make you feel better and more secure about your own financial situation?

When people spout off like this it's nearly always the folks one layoff or catastrophic illness away from being broke and/or homeless themselves and they cling to that misplaced sense of superiority as a coping mechanism.

[Like \(10\)](#)[Dislike \(2\)](#)[Report](#)[Ignore](#)

[Show all 3 replies](#)**DoverConservative**

1/25/24 - 1:32PM

16% interest is almost mafia-esque.

[Like \(20\)](#)[Dislike \(0\)](#)[Reply](#)[Report](#)[Ignore](#)**jimnearby**

1/25/24 - 1:52PM

This is an outrageous theft of private equity. If you go to a physician for a toe nail infection, he doesn't amputate your leg. No decent person in local gov. could initiate such a process. I sounds like a practice in Russia, China , North Korea or the days of surfdome to a king. This is gross malpractice by city employees and attorneys after the Supreme Court has ruled such a taking an illegal practice. Even eminent domain requires fair market value for a taking.

[Like \(13\)](#)[Dislike \(0\)](#)[Reply](#)[Report](#)[Ignore](#)**cdebergerac**

1/26/24 - 1:01PM

I wonder what the conversation was in whatever body in Greenfield made this decision. Were they licking their chops over the gain? Were there any voices objecting on a moral basis.

[Like \(0\)](#)[Dislike \(0\)](#)[Report](#)[Ignore](#)**Robflyer2**

1/25/24 - 2:18PM

This case is crystal clear on its face. The Commonwealth of Massachusetts is stealing money from citizens with both hands. Any honest judge would be able to make this right in five minutes after reading the brief. Why is there a delay? The Commonwealth of Massachusetts will steal anything that isn't bolted down. Oh sure, the attorneys for these towns and those for the Commonwealth will tell us that it's more complicated than we know. No, it isn't. Give the man his money. BTW, I feel very badly that that this poor chap could not come up with the \$6,000 he owed the town to save his generational family home. I don't think he was trying to cheat the government. No sane person would do that for the sake of a \$6,000 tax bill.

[Like \(11\)](#)[Dislike \(2\)](#)[Reply](#)[Report](#)[Ignore](#)**Chickatawbut Hill**

1/25/24 - 4:22PM

I think the problem is with the Judges in Mass. They always rule in favor of the state/city/town. Afterall, that is who put them there.

[Like \(2\)](#)[Dislike \(1\)](#)[Report](#)[Ignore](#)**ArthurDog**

1/25/24 - 3:45PM

A bigger question is: How in the world did the politicians, lawyers, tax professionals, city clerks, and all manner of people on the government side of this EVER think this was constitutionally legal or in any way moral or ethical...what's wrong with you people!?

Obviously, the victims of this scheme are poorer, less sophisticated folks who are unable to stand up for themselves...no way this would still be law if they tried this on some person with means...Absolute travesty. SHAME!

[Like \(7\)](#)[Dislike \(0\)](#)[Reply](#)[Report](#)[Ignore](#)

**Chickatawbut Hill**

1/25/24 - 4:24PM

Again, the problem is with the Judges in Mass. They were put there by the Town/State/Government. That is how they make a living. There is no moral compass in Mass Government/Judicial, etc. Never has been, and never will be, This suit will go no where! too bad

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**davidwatts**

1/25/24 - 5:27PM

"In 2017, the city of Greenfield targeted Stephen Woodbridge's property,"

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**bigfoot2015**

1/26/24 - 6:04AM

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can no longer afford it? I am all for such programs as housing support for the elderly and retirees to keep us in our homes, but until society agrees to such philosophies it would seem we have to accept our current economic realities.

Like (0)

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**Beamup**

1/26/24 - 8:36AM

Completely irrelevant. Nobody's disputing that the town is completely entitled to take and sell the property in order to get what they're owed. The concern is that they took 40 times what they were owed.

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**BreakinBad**

1/26/24 - 6:25AM

Disgusting.

Like (1)

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**Tinman334**

1/26/24 - 7:37AM

Greenfield is a dumpster fire of a town, this just adds to it. Absolutely unconscionable.

Like (1)

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**Beamup**

1/26/24 - 8:39AM

That the apparent defense is "well, there's an opportunity for a judge to decide whether or not to violate your Constitutional rights" absolutely boggles the mind. It's like saying that it's fine to burn down your neighbor's house so long as you considered first whether or not you should.

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**Boston Beaner**

1/26/24 - 11:55AM

How is this not government sanctioned theft? I hope the Globe will follow this story through the court process to see this family fairly compensated.

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