

**United States District Court
Eastern District of Michigan
Northern Division**

Case: Fox v. Cty. of Saginaw, Case No. 1:19-CV-11887

Date of Notice: _____

You Have Been Identified as a Member of a Class Action.

A federal court authorized this notice. This is not a solicitation from a lawyer.

- A Class has been certified by the United States District Court for the Eastern District of Michigan (the “Court”) in the action styled *Thomas A. Fox and all those similarly situated* (the “Plaintiff”) versus *County of Saginaw, et al.* (the “Defendants”). The Defendants include the following counties: Alcona, Alpena, Arenac, Bay, Clare, Crawford, Genesee, Gladwin, Gratiot, Huron, Isabella, Jackson, Lapeer, Lenawee, Macomb, Midland, Montmorency, Ogemaw, Oscoda, Otsego, Presque Isle, Roscommon, Saginaw, Sanilac, St. Clair, Tuscola, and Washtenaw County (the “Counties”). The Court’s order certifying the class describes the Class as follows:

All persons and entities that owned real property in the following counties, whose real property, during the relevant time period, was seized through a real property tax foreclosure, which was worth and/or which was sold at tax auction for more than the total tax delinquency and were not refunded the value of the property in excess of the delinquent taxes owed: Alcona, Alpena, Arenac, Bay, Clare, Crawford, Genesee, Gladwin, Gratiot, Huron, Isabella, Jackson, Lapeer, Lenawee, Macomb, Midland, Montmorency, Ogemaw, Oscoda, Otsego, Presque Isle, Roscommon, Saginaw, Sanilac, St. Clair, Tuscola, and Washtenaw.

- If you are receiving this Notice, you have been identified as a Class Member whose former property was sold by a Michigan county (or by its public auctioneer, Title Check) in 2021.
- If you do not wish to be considered a Class Member, you must notify the Court and the attorneys for the Class and the Defendants as indicated below.
- This Notice is to inform you of the nature of the Class Action and of your rights in connection with it. The Court has authorized this Notice, but the Court has not yet decided the merits of any of the claims or defenses as to the Class.
- Further information regarding the Class, the Class Action, and this Notice may be obtained by visiting this Class Action's website at TaxEquity.net, by emailing Class Counsel at Class-Action@TaxEquity.net, or by calling 1-800-706-5790.
- Your legal rights are affected whether you act or do not act, so please read this Notice carefully.

| YOUR LEGAL RIGHTS AND OPTIONS IN THIS CLASS ACTION | |
|---|---|
| DO NOTHING | <p>Stay in this case. Await the outcome.</p> <p>You are automatically part of the Class if you meet the description set forth above. You may benefit from any settlement, or if the Court rules for the Plaintiff, you may benefit from any relief the Court orders.</p> |
| EXCLUDE YOURSELF | <p>You may request to be excluded from the Class. This is also referred to as “opting out.” If you opt out, then you will not share in any money or benefits that are later available. If you ask to be excluded, then you will no longer be part of this case and will not be bound by or benefit from any ruling of the court.</p> |

- **Your options are explained in this notice. To ask to be excluded, you must act before June 20, 2022. Your legal rights will be affected whether you act or do not act.**

INFORMATION

1. Why did I receive this Notice?

You received this Notice because a review of government records indicates that you or a family member had one or more parcels of property foreclosed upon by the treasurer of one or more of the Counties for the non- or late payment of past-due property taxes and that the seized parcel(s) sold at auction in 2021 for more than the tax and penalties that were owed, and/or the property’s fair market value exceeded the tax and penalties owed. The Court caused this Notice to be sent to you because, based on a review of county records, you appear to fall within the definition of the Class and your former property was apparently sold in 2021. Therefore, you have a right to know about the pending Class Action.

This Notice explains that the Court has ordered, or “certified” a class action lawsuit that may affect you. You have legal rights and options that you may exercise before the deadlines set forth in this notice. Judge Thomas L. Ludington of the United States District Court for the Eastern District of Michigan, Northern Division in Bay City, Michigan, is overseeing this class action.

For more information: 1-800-706-5790 / TaxEquity.net

2. What is this lawsuit about?

In this case, Plaintiff Thomas A. Fox asserts on behalf of himself and other similarly situated persons and entities (members of the “Class”) that the “Counties” acting as the Foreclosing Governmental Units (the “FGUs”) wrongfully took or otherwise destroyed the equity in Plaintiff’s and the Class Members’ property after foreclosing and selling the property and then failing to return to him and the Class Members the difference between the property’s value and the tax delinquency owed.

Plaintiff asserts, among other claims, that the Counties violated the Michigan and United States Constitutions by wrongfully taking his and the Class Members’ property.

The “Counties” that Plaintiff sued are called the “Defendants.”

Defendants deny that they are liable, deny that they are required to refund the difference between a property’s tax liability and its value, deny that Plaintiff has the right to sue for the same in this Court, and assert that the exclusive remedy, if any, for people in your situation is an individual claim through the new Public Act 256 process discussed below.

3. What has happened so far?

After this lawsuit was filed, the Court stayed the case pending the outcome of a similar case. Thereafter, the Michigan Supreme Court held that former property owners have a property right to the surplus proceeds resulting from the tax foreclosure sale of their properties. The Michigan Supreme Court held that one particular government, acting as the FGU, violated the Michigan Constitution by retaining the surplus amount obtained from the tax foreclosure sale of the property beyond the amount of the tax delinquency.

After the Michigan Supreme Court’s decision, Plaintiff filed a series of motions asking the Court to lift the stay and certify a class. The Court decided this case should proceed as a class action lawsuit to decide the following question: whether the Defendants, in retaining surplus proceeds under Michigan’s General Property Tax Act and/or failing to return the difference between the properties’ fair market value

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and their respective tax delinquencies, violated state and federal rights belonging to the Class Members. The Court also appointed E. Powell Miller of The Miller Law Firm, P.C. and Philip L. Ellison of Outside Legal Counsel PLC as Class Counsel.

The Defendants asked the Court to dismiss this lawsuit, stating various defenses to the suit. The Court largely denied this request. The Defendants appealed to the United States Court of Appeals for the Sixth Circuit, which denied their appeal to dismiss the lawsuit.

Recently, the Defendants filed another appeal, this time regarding the Court's decision to grant class certification. The Defendants' new appeal remains pending, and it might not be decided for many months.

Despite the Defendants' recent appeal, the Class Action is continuing, and a trial date is forthcoming.

4. Public Act 256

In December 2020, Michigan enacted a new law called Public Act 256 of 2020, or "Public Act 256." It provides an alternative process through which you might be able to recover equity in your property beyond the amount of your tax delinquency. The process works by notifying the FGU of your intent to recover the remaining proceeds of your tax sale and then filing a motion in the circuit court of the county where the sale was conducted. The notice and the motion must be filed before certain statutory deadlines take effect.

Class Counsel is pursuing the claims set forth in the Amended Complaint dated September 4, 2019, which preceded Public Act 256. Class Counsel has not pursued and does not intend to pursue Public Act 256 claims for Class Members such as yourself. In Class Counsel's judgment, this Class Action is better for Class Members such as yourself than the Public Act 256 process. Class Counsel believes that some or all of Public Act 256 is unconstitutional, including its requirement that persons or entities use the Public Act 256 process to recover their equity, and that Public Act 256 does not now, and may never, provide a remedy for many Class Members. Class Counsel also believes that a larger recovery is available under the Class Action than under the Public Act 256 process. But, you may look into the Public Act 256 process and decide that it makes sense for you.

If you decide to pursue a Public Act 256 claim, Class Counsel will not represent you in making your Public Act 256 claim. However, you may want to hire a different attorney at your own expense if you are interested in a Public Act 256 claim. If you pursue a Public Act 256 claim, you may end up unable to secure a recovery, if any, from this Class Action.

You should also be aware that Public Act 256 has numerous deadlines that may have already expired or could expire soon for you. For example, if your property was sold in 2021, at least one deadline might have already expired, and May 15, 2022, appears to be the final date on which certain persons may file a motion for relief under Public Act 256.

5. Are filed papers in this lawsuit available?

This Notice does not fully describe all of the claims, contentions, and defenses of the parties. The pleadings and other important papers filed in the lawsuit are available on the following website: [TaxEquity.net](https://taxequity.net). You may also review all filed papers online for a fee via the Case Management Electronic Case Filing system of the federal court. The papers are generally also available for inspection during business hours at the Office of the Clerk of the Court, United States District Court for the Eastern District of Michigan, Northern Division, 1000 Washington Avenue, Bay City, MI 48708, but you should check with the Clerk's Office before visiting to find out if there are any COVID-related limits on in-person access to the Clerk's Office. The title of this case is *Thomas A. Fox v. County of Saginaw, by its Board of Commissioners, et al.*, No. 1:19-CV-11887.

6. What is a class action and what is involved?

In a class action, one or more plaintiffs, referred to as a "Named Plaintiff," sue on behalf of people and/or entities who have similar claims against a common defendant or defendants. All of the individuals and entities on whose behalf the Named Plaintiff in this lawsuit is suing are members of a "class" referred to in this Notice as Class Members. Because the Named Plaintiff believes that the wrongful conduct alleged in this case affected a number of individuals and entities in a similar way, the Named Plaintiff filed this case as a class action seeking relief from the Defendants for everyone in the Class. The Defendants are the "Counties."

The Court has decided that this lawsuit can be a class action and move toward a trial because it meets the requirements of Federal Rule of Civil Procedure 23, which governs class actions in federal court. More information about why the Court certified this lawsuit as a class action is in the Court's October 16, 2020, order, which is available on the website.

7. Who is included in the Class? Am I part of this Class?

The Court defined the Class as follows:

All persons and entities that owned real property in the following counties, whose real property, during the relevant time period, was seized through a real property tax foreclosure, which was worth and/or which was sold at tax auction for more than the total tax delinquency and were not refunded the value of the property in excess of the delinquent taxes owed: Alcona, Alpena, Arenac, Bay, Clare, Crawford, Genesee, Gladwin, Gratiot, Huron, Isabella, Jackson, Lapeer, Lenawee, Macomb, Midland, Montmorency, Ogemaw, Oscoda, Otsego, Presque Isle, Roscommon, Saginaw, Sanilac, St. Clair, Tuscola, and Washtenaw.

If you are still not sure whether you are included in the Class, you may ask for help. Please contact Class Counsel, whose contact information is listed below.

YOUR RIGHTS AND OPTIONS

8. What happens if I do nothing?

If you do nothing, you will remain a member of the Class. You do not need to do anything at this time. If you remain part of the Class, you may benefit from any favorable judgment, ruling or award and you keep the possibility of getting money or benefits that may be available in the future as a result of a trial or a settlement. You will also be bound by any judgment, ruling or trial, win or lose.

9. If I decide to exclude myself, how can I do that?

If you ask to be excluded from the Class, you will not be entitled to any recovery of money or benefits, if any is ultimately available in connection with this case. But you will be free to exercise on your own any rights or claims that you may have against the county entity which foreclosed on your property, including the same legal claims that are the subject of this lawsuit.

In the event you wish to exclude yourself from the Class, you must send a letter stating that you want to exclude yourself from the lawsuit to the below address. The letter must include your full name, current address, and current telephone number, along with the parcel/tax ID number and the name of the county where the parcel is located. The writing must contain the name of this Class Action and its case number and must state: “I request to be excluded from the class in the *Fox v. County of Saginaw* case.”

You must mail the request letter to the below address, and it must be postmarked no later than June 20, 2022.

Fox v. County of Saginaw
c/o Epiq
P.O Box 2955
Portland, OR 97208-2955

THE LAWYERS REPRESENTING YOU

10. Do I have a lawyer in this case?

Yes. The Court has approved the appointment of E. Powell Miller of The Miller Law Firm, P.C. and Philip L. Ellison of Outside Legal Counsel PLC as Class Counsel. You may contact Class Counsel by email at Class-Action@TaxEquity.net; through the website www.TaxEquity.net; or by telephone at 1-800-706-5790.

For more information: 1-800-706-5790 / TaxEquity.net

11. How will the Court appointed Class lawyers be paid?

If Plaintiff and Class Counsel obtain benefits for the Class, they will ask the Court for fees and expenses. You will not have to directly pay these fees and expenses.

12. Can I hire my own lawyer?

If you want to be represented by your own lawyer, you may hire one at your own expense.

OTHER CONCERNS

13. What if the owner of the property at the time of the foreclosure is deceased?

If the property owner at the time of the foreclosure is now deceased, his or her probate estate may be eligible to receive any distribution that the Court requires be paid by Defendants. If this is your circumstance, please contact Class Counsel by email at Class-Action@TaxEquity.net; or call 1-800-706-5790.

14. How do I get more information?

To obtain more information, contact Class Counsel by email at Class-Action@TaxEquity.net; visit the website www.taxequity.net; or call 1-800-706-5790.

Please do not contact the Court with questions. Any questions regarding the Class Action or this Notice should be directed to Class Counsel.