



January 30, 2025

**Clackamas County Board of Commissioners
Policy Position
Relating to Tax Foreclosure Surplus Process Following Tyler v. Hennepin County**

Clackamas County supports a standard statewide process for county foreclosure surplus claims in response to the Supreme Court decision Tyler v. Hennepin County.

In 2023, the U.S. Supreme Court ruled on a case called Tyler versus Hennepin County, changing how the surplus funds from tax foreclosed properties are managed by counties. Most U.S. states have a mechanism in place to allow a delinquent owner to make a claim for surplus funds (funds that exceed owed taxes, interest, penalties, and reasonable fees for maintaining and selling the property). Oregon does not have a mechanism to repay surplus funds to previous owners of record. Absent a statewide solution, all 36 counties must create their own processes to achieve compliance.

Clackamas County works to prevent property foreclosures, facilitating process interventions and wraparound services for people in crisis. Currently, the county holds title to a number of tax-foreclosed properties. All properties presently in the county's inventory are undeveloped parcels, and many sites cannot be developed due to unique site characteristics. The county has attempted to sell many of these properties but has been unsuccessful. Pursuant to Tyler v. Hennepin, the county has received surplus claims, primarily from corporations that have acquired rights to a surplus claim from the former property owner or their heirs. The county has also incurred lawsuits.

Clackamas County urges meaningful improvements to the introduced legislation to create a simple and statewide process that all counties can follow. Successful legislation should:

- Comply with the basic requirements of Tyler v. Hennepin County;
- Recover the taxes, interest, penalties and costs incurred to maintain the foreclosed properties until the property is sold;
- Limit administrative processes; and
- Protect counties from lawsuits.

Further, the county supports legislation that would establish a one-time fund to support counties repaying claimants for sales that have occurred in the last six years. Counties have spent those funds in compliance with state statute that existed before the Tyler v. Hennepin decision.

Please contact Trent Wilson (twilson2@clackamas.us) for more information.