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An Unintended Consequence of House Bill 390

Low Value Auction Sales Under Ohio's "Fast Track Foreclosure" Law Will Result In Further Damage To Ohio's Hardest Hit Communities

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House Bill 390 (derived from former house bills 134 and 463), backed by the Ohio Mortgage Bankers Association and the Ohio Bankers League, known generally as the "fast-track foreclosure" bill, became law in Ohio on September 28, 2016 . The law includes a provision that eliminates the 2/3 minimum bid requirement for all mortgage foreclosed property when there are no bids at a first auction sale. Of particular concern is the impact this would have on vacant abandoned property coming out of foreclosure. ***Proponents of the bill have assumed that a sale of vacant abandoned property to anyone, for as little as \$1.00, will result in a beneficial outcome for Ohio communities.***

To test this assumption, an analysis was conducted of 2,281 unduplicated properties that sold at Cuyahoga Forfeiture auctions between 2010 and 2015 (a subset of 1,806 were in the City of Cleveland). These properties typically sold for \$500 or less. Apart from the fact that Forfeiture sales result from tax delinquency, while the HB390 sales will result from mortgage delinquency, they share one important common element: they both involve properties that are distressed to the point where no one would want to bid on them at the initial sale (mortgage) or the first two sales (tax).

Using a variation on a "survival" analysis used in a 2013 study of post-foreclosure property published by Harvard University¹, the analysis conducted for this test looked at how many of the 1,806 in the City of Cleveland were in a state of "failure" as of 2016, where failure meant the properties had any one of the following characteristics:

- Were now ***condemned***.
- Had been ***demolished***.
- Were found to be ***a vacant structure rated either D or F*** in a survey conducted by Western Reserve Land Conservancy for the City of Cleveland in 2015.
- Had again become ***tax delinquent*** with a certified delinquency of ***at least \$1,000***.

¹ "The Role of Investors in the One-To-Three-Family REO Market: The Case of Cleveland", Harvard University, 2013. <http://www.jchs.harvard.edu/research/publications/role-investors-one-three-family-reo-market-case-cleveland>

The Harvard study referenced above found that properties coming out of foreclosure that ended up ***in the hands of land banks were four times more likely to have a beneficial outcome*** than those in the hands of private investors. In 2009 the Ohio General Assembly wisely enacted a law enabling the establishment of land banks that can repurpose vacant blighted properties. As of January 2017 forty-three (43) Ohio counties have land banks in operation.

The analysis was limited to Cleveland because condemnation data was not available for all Cuyahoga municipalities, and the survey data on property condition was only available for the City of Cleveland.

The result was that 1,192, or 66%, of the properties in Cleveland met at least one of the failure criteria.

The analysis was repeated for 1,539 that sold between 2010 and 2014, eliminating the more recent sales in 2015. The result was similar: 1,065, or 69%, of the properties in that pool met at least one of the failure criteria.

A further result, perhaps more important, is that **999 (94%) of the failed properties are located in the predominantly African American East Side of Cleveland.**

Conclusion: not only does this analysis suggest that removing the 2/3 minimum bid for abandoned property will not bring about the intended beneficial result, but the non-beneficial outcomes will fall more heavily on African America neighborhoods.

Further, this analysis, combined with the results of the Harvard study, suggest that a better alternative for Ohio communities would be to require properties in such distress to be offered as a donation to one of Ohio's 43 land banks.

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