April 17, 2023

Publican’s Posting

Mary (not her real name) looks about 45 years old. She lives in the house where she grew up, in an affluent North Oakland neighborhood. It’s not a large house, 2 bedrooms, and the lot is deep and narrow. There is a garage underneath the house. The house has a lot of deferred maintenance; the front yard, and especially the back yard, are terribly overgrown with weeds. Not just small, easy to pick weeds, but the large ones that begin to look like small trees. Her house is a bit of an eye-sore in this well-kept neighborhood.

Edgar (not his real name) lives in a much poorer neighborhood in East Oakland. Edgar is older, perhaps in his 60’s. His house is about the same size as Mary’s, but the lot is larger. The house is not in bad shape. The three cars in the driveway look undrivable, which doesn’t help the look of the property.

Carla (not her real name) lives in an upper-middle class neighborhood in north Berkeley, near the gourmet ghetto. She is in her 50’s. This is a large 3-bedroom home, but it clearly needs painting and repairs.

None of these people know each other. Mary and Edgar are Black Americans, Carla is white. All are unemployed, and all are living in the house in which they grew up. Two things they all have in common: both of their parents have died, at least one in the last 7 years, and all of them have homes which have become tax defaulted.

Tax-Defaulted property means that the owner/taxpayer has not paid their taxes for at least 5 years. It is the job of the Treasurer-Tax Collector (TTC) to dispose of the properties at an (on-line) auction to the highest bidder. If the TTC causes the sale to happen, the taxpayers have the right to receive the “excess proceeds”, after the taxes, penalties, interest, and costs have been paid. In Mary’s case, the likely price someone might pay would be over $1 million; for Edgar’s house, the likely price would probably be over 700,000; for Carla, the price would likely be over $2 million.

However, in our experience, there are often issues which impedes them getting these “excess proceeds.” They may be unaware of the legal process to transfer the property into their names. Another can be in-fighting between siblings. Also, there may be liabilities that have been recorded on the property. So, it has often happened that the owners receive virtually nothing.

What is the best action for the county?   The TTC could sell these properties on the auction. Alameda County (along with the schools and cities) would get their back taxes; a change of ownership would likely mean that future taxes (now larger) would likely be paid, providing a benefit to the County, the schools, and the cities of Oakland and Berkeley.

What is the best action for the residents? The TTC could also decide to keep Mary and Edgar and Carla in their homes and pull these properties off the auction. In conversations with them, they all have expressed a strong desire to stay in their homes. They have fears of becoming renters, or even becoming homeless. The TTC could pull these properties off the auction on the basis that this action is, under State law, "in the best interest of the County."

I am the TTC, and I hate these choices.

Tax delinquency, in general, is composed of two types of problems; the first are hardship cases, such as Mary and Edgar and Carla. The other types of default represent failures of properties to get developed, but I won't discuss those here. Sometimes a taxpayer just falls on hard economic times, but quite often it is associated with the death of a parent, usually the "second (parent)-to-die." Often, the problems begin with the "first-to-die," but when the second parent dies, any issues with the children come forth.

Either of the parents may have just had enough income, through a pension or social security, to afford the property taxes and other costs associated with keeping up the property. But the child might be disabled (physically/mentally/emotionally) or just chronically under-employed. Sometimes the inheritance isn't clear, and the children can't agree on who is responsible for the property taxes. This problem is not unique to families of color; however, these type of tax-delinquency and tax-default issues do disproportionately impact people of color. I have met dozens of grown children of parents who died, who seem clueless about their responsibility to pay property taxes.

There are some obvious ways to try to find out this type of tax delinquency. One is to link a database of deaths in the county with the first signs of tax delinquency; if we knew this, we could intervene earlier in the process. We intend to start this with the electronic file held by the County Recorder's office; unfortunately, state law mandates that electronic databases only need the name, not the address, of the decedent, so it might be difficult to cross-reference these. It would be incredibly useful to be able to search and join our property data with addresses of decedents.

Every year there are approximately 3,000 new tax delinquent properties in Alameda County. Most of these get paid off by the time they become tax-defaulted, in the 5th year. Our current practice is to take a close look at the properties when they hit this mark; but this is not enough time to truly engage with the taxpayers, especially as the auction looms. Resources permitting, we intend to begin to look at properties which are two- or three-years delinquent, and then dive into more extensive research, using forensic tools and other data sources at our disposal. Currently, our only tool is to remove these properties from the auction and give them at least one more year to resolve the problem. But often one year is not enough time.

The state has some grant programs to help people with their property taxes, and the County has an installment plan, which is eligible to anyone with less than 5 years delinquency (so tax-defaulted tax payers are not eligible), but it comes with conditions that people with low-income often cannot meet.

There are other longer-term solutions to assisting low-income homeowners: Owners could rent out a room(s), which normally does not require much capital. Or they could build an Accessible Dwelling Unit (ADU). However, an ADU usually takes a significant amount of capital to create.

For money (capital) that might be needed to pay the County and/or to finance ADU, I can think of two longer-term financial solutions:

1. **Reverse mortgages**
2. **Shared Equity programs**.

Both could provide funds for back debts as well as pay for deferred maintenance projects.

Reverse mortgages obtain capital for the taxpayer/homeowner by giving a loan (or a credit line) based on the equity inherent in the property, not the income of the owners, and have no requirement to be paid back until the house is sold, which is usually upon the death of the owner. They have gotten a bad reputation due to some unscrupulous actors who gouged homeowners with excessive interest rates and exorbitant fees; also, they are ridiculously over-regulated to the point that banks want nothing to do with them, and they are hard to find. Perhaps this is something that our County government could consider offering; or a Public Bank or a revolving loan fund, both of which are now being considered in the County.

Shared equity programs obtain capital for the taxpayer/owner by selling an ownership interest in their home, either to a fund or to another investor. These are perceived in a more benign way than reverse mortgages but are somewhat riskier and the payoff more uncertain, and also might entail higher fees. Banks, including a public bank, or investment funds, could organize these as well.

How would either of these programs get funded? They could raise money from traditional sources (banks, private investors, pension funds), or a government, such as a County or the State, could organize such a fund.

Mary and Edgar and Carla and the dozens of other hardship tax delinquencies deserve to get help from their county government this year. I truly believe this is achievable. I believe our government can intervene earlier in the process. I don’t want to have to choose between keeping long-time county residents in their homes and providing funds to important government programs.