



## The Actually Existing Markets of Shrinking Cities

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### Series: Shrinking Cities

*In a bid to halt urban decline, Michigan's state government sought to create incentives for the creation of urban homesteads by accelerating the tax-foreclosure process. But what happens when city and county administrations don't play ball—and what are their motivations for doing so? Joshua Akers examines the adverse effects of a market-centric public policy.*

In the late 1990s, the state of Michigan bet on markets and urban pioneers to reinvigorate its struggling cities. The Michigan Urban Homesteading Act was an effort championed by Republican governor John Engler and state senator Bill Schuette, as a market solution to urban decline. One of its bills, the acceleration of tax foreclosure and the auctioning of foreclosed property, has had a lasting effect, damaging neighborhoods and communities in cities like Detroit and Flint through foreclosure and eviction.

The purpose was to create a pipeline of homestead properties by accelerating the tax-foreclosure process from seven years to three. But the law has yet to produce a single urban homestead.<sup>1</sup> Instead, the tax auction provided speculative and predatory buyers a consistent pipeline of property. It also created a set of perverse incentives for city and county governments dealing with declining property values and decreasing state support. In Detroit and surrounding Wayne County, over-assessing property and collecting fees and interest on late tax payments became vital revenue streams for avoiding or emerging from bankruptcy.

Over 150,000 properties in the city of Detroit have gone through the Wayne County Tax Auction since 2002. This process has evicted thousands of residents, transferred tens of thousands of properties in need of demolition to Detroit and generated millions of dollars in fees and interest on back taxes for Wayne County (Kurth and MacDonald 2015). Some properties were long abandoned, and others were vacant and held by out-of-state speculators. But many of these properties were occupied either by owners or renters, whom the landlord never informed of a pending state eviction. This cycle of accumulation by dispossession in Detroit is driven by market-centric public policy and Michigan's hands-off approach to a shadow home-finance market where land contracts are now the primary means of buying a home.

Exploitation is central to urban shrinkage in the United States. Dispossession, eviction, the churn of low-value properties by speculators, and eventual demolition *are* the market rather than a reflection of its absence. The decline of urban centers is accompanied by an increase in property speculation and predatory landlords. Market-reliant policies such as the tax-foreclosure auction have become reflections of actually existing markets rather than the elusive assumptions in the market models of policymakers and think tanks. The origins and outcomes of the tax-foreclosure

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<sup>1</sup> For a definition of urban homesteading, see: [https://en.wikipedia.org/wiki/Urban\\_homesteading](https://en.wikipedia.org/wiki/Urban_homesteading).

process in Michigan demonstrate the constraints of market-centric policymaking, and the opportunities for speculative gain created under conditions of austerity and chronic decline.

### **Remaking the tax-foreclosure system**

The revamping of Michigan's tax-foreclosure system was sold as a novel approach to urban revitalization with deep American roots in the practice of homesteading. Supporters argued that accelerated foreclosure would create a pipeline of property for "responsible" single-family homeowners. The legislation achieved several accomplishments. First, it shifted responsibility for the entire process of tax foreclosure to counties; the state was heavily involved prior to this change. Second, it created a homesteading program in which qualifying people could buy a tax-foreclosed home for \$1, if they accepted mandatory credit counseling, presented semi-annual proof their children attended school, submitted to drug tests, and had not committed a felony. Finally, it created an avenue to privatize public housing by allowing residents to petition to privatize.

This policy was specifically targeted at predominantly black cities in Michigan, such as Detroit and Flint, but the origins of the policy lay elsewhere. The homesteading program mirrored those championed by Republican Jack Kemp, the former US Department of Housing and Urban Development (HUD) Secretary, and Stuart Butler at the Heritage Foundation. For Kemp and Butler, an effective homesteading program would eliminate the need for public housing through privatization and matching former tenants with dilapidated homes in need of major repairs.

In Michigan, former Kemp deputy John Weicher headed the Michigan Urban Policy Initiative. A Hudson Institute fellow, Weicher had spent over two decades working to privatize public housing for Republican administrations and right-wing think tanks. After 18 months of work, Weicher's group proposed a series of changes including the privatization of all public housing, the creation of an urban homesteading program, and revamping the state's tax-foreclosure system.

State senator and current Michigan attorney general Bill Schuette and Rep. Patricia Birkholz, a former secretary for the American Legislative Exchange Council (ALEC), carried the legislation. In support, Schuette wrote that the program would attract the rugged settlers needed to tame the "wild and lawless west," invoking Detroit, Chicago's Cabrini Green, and South Central Los Angeles as contemporary frontiers. If the racial imaginary of Schuette was unclear, he told a reporter in reference to Detroit and Flint, "If staying off drugs is a hardship, if continual employment is not your bag, or if you don't care if your kids stay in school, this isn't for you." Birkholz was more direct, arguing the bills would "put the kind of people we want in those neighborhoods" (Akers 2013).

In 15 years, less than 10% of houses purchased in the tax auction were by an individual. What emerged instead was market for bulk buyers created by an annual state-initiated mass eviction and a multi-million-dollar revenue stream for Wayne County on a state-mandated rate of 18% interest on back taxes.

### **Perverse incentives and the cycle of dispossession**

As the mortgage crisis accelerated in 2007 and 2008, banks and government-sponsored enterprises (e.g. Fannie Mae) began dumping foreclosed properties at highly discounted prices. Bulk purchases dominated this period of the crisis. The REO<sup>2</sup> sale was often the first of many purchases and title transfers as bulk buyers and speculators swapped titles and properties. One federal response to the crisis was the Hardest-Hit Fund, a pool of money to assist homeowners with mortgage issues to remain in their home. This fund had limited success in Michigan, as the state, under Republican governor Rick Snyder, set very narrow criteria to qualify for the program. After

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<sup>2</sup> REO: real-estate-owned, i.e. foreclosed properties.

lobbying from cities such as Detroit, the federal government agreed to reallocate the funds to demolishing vacant houses rather than keeping people in their homes.

In 2013, Detroit mayor Mike Duggan transformed the moribund Detroit Land Bank Authority into a vehicle to manage a demolition program financed by \$270 million in federal funds. The agency operates as a public-private entity with limited public oversight and few reporting requirements. It is under investigation by the Inspector General of the Troubled Asset Relief Program and the FBI over the rising costs of demolition contracts. Beyond a funnel for federal money, the land bank has become the primary property-management agency for the city of Detroit, holding over 100,000 parcels, or about 25% of all property in the city (Feretti 2016a; Feretti 2016b; Helms 2016; Force 2014).

Though the city had been acquiring abandoned property for years, the pace of acquisition accelerated at the end of the last decade. By 2009, the global mortgage crisis transformed into a tax-foreclosure crisis in Detroit. Between 2009 and 2015, the volume of properties grew rapidly, with nearly 28,000 properties reaching the tax auction in 2015 (Akers 2013; Cwiek 2015). It takes three years from initial delinquency for a property to reach auction, so 2009 properties reflect 2006 and those from 2015 entered the process in 2012. The implementation of various local programs, such as payment plans and aggressive door-to-door noticing, reduced that number to 14,000 in 2016 (Lawrence 2016). But the number of properties that qualify in 2017 is over 60,000, and those that entered payment plans to avoid the auction this year are one missed payment away from the auction in 2017 (Paffendorf 2016).

Only 40% of Detroit properties offered at the tax auction have sold since it began in 2002. Unsold properties are generally transferred to the city of Detroit and its land bank. Most parcels enter the tax-foreclosure process for delinquent taxes, but the path to the auction is varied. There are three channels that are of particular interest. First are houses that went through mortgage foreclosure and were not subsequently sold. These are often vacant and stripped of anything of value. Second are properties at the end of a speculative cycle. In these cases, the owner has been unable to sell or given up on the investment. Third are properties in which the owner is unable to pay their taxes (e.g. seniors on fixed incomes, the unemployed, the working poor) or who fall behind on tax payments.

This third category offers a clearer picture of the precarious financial situation of many residents and the dire fiscal conditions of the city and the county. In Detroit, tax assessments do not reflect the market value of houses. The Michigan Constitution requires taxable value be no more than 50% of the market value for the property, yet Detroit assessments exceed that citywide (Atuahene 2017; Atuahene 2016). In addition, Detroit makes it extremely difficult for poor residents to qualify for a state exemption from property tax. If an exemption is granted, it is not retroactive, so any tax bills accrued prior remain in place.

In a recent lawsuit, the American Civil Liberties Union (ACLU) and the National Association for the Advancement of Colored People (NAACP) argue that tax foreclosure has a disparate impact on black residents in Wayne County. According to census data, black-majority cities in Wayne County account for over 92% of all tax foreclosures in the county. The suit claims that this disparity is driven by inaccurate property assessments in the city of Detroit (Sands 2016).

In their response to the suit, the city did not deny properties were over-assessed. They argued they would be unable to provide services if that revenue were lost. They also claimed their recent municipal bankruptcy exempted the city from claims occurring prior to bankruptcy. In essence, Detroit could not be held responsible for something it continues to do because the revenue estimates in the financial agreement governing its exit from bankruptcy would not hold (MacDonald 2016).

The Wayne County Treasurer claims the auction is required by state law and that his office is operating on information the city provides. But until 2015, the treasurer arbitrarily capped the number of foreclosures due to the county's lack of capacity (Akers 2013). There is a more perverse incentive at work in this case. Wayne County is teetering on the edge of bankruptcy. It is currently

undergoing a massive reorganization and implementing service reductions to avoid a state takeover. The auction brings tens of millions of dollars in revenue to the county on an annual basis through fees and interest (Ramirez 2015).

The city and county are attempting to balance budgets by squeezing those least able to afford it. But the tax auction has a differential impact on speculators and owners abandoning property. They use the process as a way to clear tax bills and shift the cost of demolition to the public. But those trying to stay in their homes with low incomes and high tax bills are caught between two local governments in financial crisis that are both seeking to extract revenues to stay afloat. The result is an annual wave of displacement and dispossession exacerbated by Detroit's systemic over-assessment and their withholding of poverty tax exemptions. It is perpetuated rather than challenged by a financially struggling county keeping itself afloat by charging exorbitant rates and fees with those struggling to cover inflated assessments.

The current patterns of accumulation in the city of Detroit were emboldened by market-centric policies and the perverse incentives of local governments operating under austerity. Though the scope of conditions in shrinking cities are somewhat anomalous, the policies, or more specifically the logic of these policies, and broader activities in economic sectors such as housing, are deployed in most US cities. It is the inversion of these activities, where speculation and predation are more prominent than economic growth or development, that offer a way to understand transitions in urban policy and practice across the United States, particularly how displacement, dispossession, and eviction are strategies of accumulation rather than unfortunate outcomes of growth and development.

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