

Strict Foreclosure of State Tax Liens Declared Unconstitutional

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Michael H. Traison

Chicago/NYC – 312.860.4230

A month earlier than some expected, the United States Supreme Court has ruled that Strict Foreclosure of state tax liens resulting in forfeiture to the state of all the owner's equity, even beyond the tax debt, constitutes a violation of the "takings" clause of the Fifth Amendment of the United States Constitution. This decision resolves a conflict between rulings of the Courts of Appeal for the Sixth and Eighth Circuits.

We've discussed these issues in client alerts issued in November^[1] and the follow up in May^[2]. Some may also view this decision as remarkable for the unity among the justices at a time when political orientation of the court has been the subject of increasingly intense discussion.

Please note this is a general overview of developments in the law and does not constitute legal advice. Nothing herein creates an attorney-client relationship between the sender and recipient. If you have questions regarding real estate tax foreclosures, please contact Michael H. Traison (mtraison@cullenllp.com) at 312.860.4230.

Footnotes

[1] Tax Forfeitures: The 6th Circuit Calls Strict Foreclosure State Sponsored Theft

[2] Strict Foreclosure: Can the State Take More Than is Owed?

Practices

- Bankruptcy and Creditors' Rights

Attorneys

- Michael H. Traison