

Are you a TENANT in a home in tax foreclosure?

Answers to 25 Common Questions Tenants Ask

1. Do I still have to pay rent if my landlord is in tax foreclosure and who do I pay?

Landlords are entitled to collect rent as long as they own the rental property and meet their responsibilities as landlords. If the landlord is in tax foreclosure and fails to pay the foreclosure taxes or to make other arrangements with the Wayne County Treasurer (WCT) by March 31st, the WCT becomes the new owner on April 1st.

2. If I don't pay rent what will happen?

Your landlord may give you a 7 day notice for non-payment of rent or a one month notice to evict you and bring an eviction case in your local district court (in Detroit, the 36th District Court). If your landlord does not own the property, and this is raised to the court, the case should be dismissed. It is best to get legal counsel to represent you in these cases. In Detroit, UCHC can provide free legal counsel, and in Wayne county, the Legal Aid and Defender Association can do the same, if you qualify for their assistance.

3. If I don't pay my rent what should I do with it?

Hold on to it. If you are in Detroit, you can work with UCHC to set up a tenant withholding account. The main point is that you may need the money if your landlord pays the taxes or works a deal with the Wayne County Treasurer (WCT).

4. How do I know if my landlord has paid the taxes or worked out a deal with the WCT?

If you are working with UCHC or MLS, we will find out for you. Otherwise you can check on line with the WCT to see if the taxes have been paid and you can ask your landlord to show you proof that there is an agreement with the WCT.

5. Is the fact that my landlord has not paid the taxes and lost the home, the only reason I can withhold my rent?

No. Regardless of the property tax situation, the landlord has a duty to maintain the property, and if the landlord does not maintain the property then you may withhold rent. However, you should get legal advice before taking this action.

6. Am I going to be evicted April 1st by the Wayne County Treasurer (WCT) if my landlord does not pay the taxes?

No. The WCT does not want to evict you or to have a vacant home. By law the WCT will offer the property to your local government in July and if your city does not take the property, it will be auctioned in the fall. Very few properties are ever taken in July. If it does not sell at the first fall auction, a second auction is conducted.

7. If my home is sold at auction when would I be evicted?

Maybe never, if the new owner wishes to rent to you. Otherwise if the home is sold in September or October at the auction, generally the new owner brings an eviction action in December or January.

8. Why can't the new owner evict me sooner?

The new owner does not become the owner of the property until the WCT provides the owner with their deed, which usually takes about a month. Then, the new owner has to provide the tenant with a one month eviction notice before starting an eviction court case in district court. The actual legal eviction will be several weeks after the auction sale.

9. What happens to the rent that I withheld?

Any rent withheld after the landlord lost the home, belongs to the tenant. The old owner is not entitled to it, the WCT is not the landlord, and the new owner is not entitled to rent until the new owner obtains a deed. Notwithstanding this the old landlord may try to collect rent and you need to have an attorney represent you to make sure they are not successful.

10. As a tenant can I pay the taxes and stop the foreclosure?

Yes. The WCT will accept the payment from anyone.

11. If I pay the taxes will I become the owner?

No. The tenant paying the taxes will not make the tenant the owner, but it will save the owner/landlord from losing the property. The tenant may be able to deduct this payment from rent, but the payment will not make the tenant the owner.

12. Why would a tenant pay the taxes if it did not make him the owner?

To keep someone else from becoming the owner. Perhaps the tenant has a very good landlord and paying the taxes and keeping the same landlord makes sense. Sometimes the landlord is a family member. Usually it would be good to talk to your landlord about this.

13. How can I become the owner?

The most common ways are to buy out the interests of the owner or to purchase at the auction in the fall. YOU SHOULD BE EXTREMELY CAREFUL IF YOU ARE BUYING OUT THE OWNER'S INTEREST BECAUSE THE OWNER MAY HAVE NONE AND YOU WILL STILL HAVE TO RESOLVE THE TAX FORECLOSURE.

14. How do I know if my landlord really is still the owner?

Absent getting title insurance and having a check made you will not. On many of these homes you may not have time to deal with a title company but you should at least get some free legal advice so you know how best to proceed.

15. Do I get a preference at the auction if I am the tenant or former owner?

NO.

16. Am I allowed to bid as the tenant or former owner?

YES.

17. Where is the auction held?

For the last four years it has been on-line and likely will again this year.

18. How much will I have to pay at the auction?

It depends on the auction and what others bid. The minimum bid at the first will be all the taxes owed through the prior year (i.e. 2013). In the second the minimum bid will likely be \$500 for houses that did not sell in first. If you wish to bid on your home and participate in the auction process, you should get advice about how to proceed.

19. If I want to participate in the auction, can I get help?

The UCHC can provide advice and assistance with this process. Over the last four years UCHC has purchased over 1,100 homes for occupants, including tenants.

20. How much time will I have to pay the bid price?

You need to pay the bid amount by the close of business the following day after bidding. You should check the rules that are published prior to the auction to make sure. The sales are "cash sales" and payment must be made soon after the bid.

21. Can I really buy my home for \$500?

Yes many homes occupied by tenants sell for this amount every year.

22. How will I know what the minimum bid is and when the auction is taking place?

The WCT will post on their web site this information in August for the first auction and also prior to the second. If you are working with UCHC or MLS we will also notify you of events such as an auction training which we will be conducting later in the year.

23. Once I buy the home will I then have to pay the all the taxes?

Property taxes and liens such as water bills up to 2014 will be extinguished by the foreclosure and auction sale. If you purchase the home you will be responsible for the 2014 taxes that come due in July 2014 and the winter taxes for 2014.

24. What about other liens like mortgages and land contracts?

Those liens are also extinguished by the foreclosure and auction sale. State and IRS tax liens may not be extinguished however. You should find out what liens are on property before you bid.

25. If I have other questions where can I go to get answers?

You can call or come in to see someone at the TFPP at UCHC or MLS.

**TAX FORECLOSURE PREVENTION PROJECT
UNITED COMMUNITY HOUSING COALITION/MICHIGAN LEGAL SERVICES
220 BAGLEY, SUITES 224 AND 900
DETROIT, MI. 48226
(313) 963-3310/(313) 964-4130
(313) 964-1192 FAX**