



San Bernardino County



Ensen Mason CPA, CFA • Auditor-Controller/Treasurer/Tax Collector

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Mason Suspends Chapter 8 Tax Sales Pending SCOTUS Ruling

San Bernardino, CA — States and counties across the country often engage in a practice that has been referred to as "home equity theft". Most counties in California, including San Bernardino County, have routinely taken part in a process known as a Chapter 8 Sale, which is provided for under Chapter 8 of Part 6 of Division 1 of the California Revenue and Taxation Code. This process allows eligible taxing agencies and nonprofit organizations to purchase tax-defaulted real estate for the purpose of public benefit by only paying the back taxes owed plus penalties, fees, and costs associated with the sale. Any equity the property owner has is taken from them – the owner receives no compensation for their property.

Ensen Mason, San Bernardino County Auditor-Controller/Treasurer/Tax Collector, has been sounding the alarm for this practice that he feels is unconstitutional. "The Fifth Amendment clearly states that private property cannot be taken for public benefit unless the owner is paid fair value for that property," says Mason. "Chapter 8 clearly violates the Fifth Amendment and should be stopped across the state, or significantly reformed so that property owners don't lose what is rightfully theirs."

Others seem to be in agreement, as the Supreme Court of the United States heard opening arguments in *Tyler v Hennepin County, Minnesota, et al.* on Wednesday, April 26. The circumstances of this case are similar to California's Chapter 8 process in that Hennepin County sold Tyler's property to satisfy her delinquent property tax debt and kept the remaining value of her equity as a windfall. In Tyler's case, she owed \$15,000 back taxes on her condo that eventually sold for \$40,000. The County kept the excess proceeds of \$25,000, leaving Tyler with nothing.

During the 100 minutes of testimony heard Wednesday, the justices seemed to be in broad agreement with Tyler. Justices Kagan and Gorsuch said that Hennepin County's position appears to be that it could seize million-dollar properties over tiny tax bills. "So a \$5 property tax (owed), on a million dollar property, good to go?" asked Justice Gorsuch. The attorney for Hennepin County essentially said yes.

A decision in *Tyler v Hennepin County* is expected in late June. Therefore, Ensen Mason is announcing the suspension of Chapter 8 tax sales in San Bernardino County, pending the US Supreme Court's ruling.

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