

# **The Consequences for Homeowners and Communities of Erie County's 18% Interest Rate on Delinquent Property Taxes**



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## Summary of Findings:

The current interest rate on delinquent property taxes in Erie County, New York is 18 percent, well above today's prime rate (3.25%) and also **higher than New York State's current civil usury limit of 16 percent**. Local homeowners who fall behind are punished immediately and immensely by interest. On average, homeowners in low-to-moderate income zip codes whose homes were placed in Erie County's In Rem Auctions 167-169 owed **41%** of their total delinquent tax bills in interest alone. The average amount of interest owed in a LMI zip code approaches or even surpasses the zip code's average monthly income. And interest takes a toll on generational wealth transfer and economic stability by eating away at home equity: the average LMI zip code homeowner in In Rem 167-169 has lost **8.02%** of the assessed value of their home to interest alone. Not only are individual homeowners affected by this loss of value, but the neighborhoods and municipalities they live in are hurt, too. Studies point to lower neighborhood housing sales associated with even one delinquent property in the vicinity, and tax delinquency can discourage or prevent homeowners from making housing repairs or improvements, which harms the municipality's tax base. In order to assure community stability and sustainable growth in the future, **New York State should remove its current 12% floor on delinquent property tax interest rates and instead establish a cap of 7.5%**. Erie County should also increase flexibility for local homeowners by allowing homeowners to pay property taxes monthly rather than annually and by offering home-saving payment plans to homeowners earlier in the tax delinquency process.

## Foreword: Context of Erie County

Erie County is an industrial and commercial region of New York State, home to approximately 918,000 New Yorkers (2020 Census). The county contains 3 cities – Buffalo, Lackawanna, and Tonawanda – 25 town governments, and 14 villages. Buffalo, New York State’s second largest city, is the county seat, and both the city and Erie County trace their economic development to the area’s strategic location as a trade center since the mid-1880s, a feature that allowed the region to blossom as a manufacturing hub throughout the 19<sup>th</sup> and most of the 20<sup>th</sup> centuries. In recent decades, however, the industries that built Erie County’s economy have largely disappeared – railroad commerce and steel production, for example. Today the region still holds many community assets including a number of state parks, educational institutions, and the Niagara River/Lake Erie Watershed.<sup>1</sup> But Erie County also faces a number of economic issues: heavy population loss (the county lost 17.5% of its total population from 1970-2010), an aging population (the county’s population is the nation’s 9<sup>th</sup> oldest), and poverty (the City of Buffalo has a poverty rate of 30%, more than twice that of the United States or New York).<sup>2</sup>

A declining population and high poverty rate are reasons why Partnership for the Public Good declares “poverty and inequality” to be the greatest issue affecting the Buffalo-Niagara region today<sup>3</sup> – it is also a large issue for New York State, which ranks first of all 50 states in wealth inequality.<sup>4</sup> This wealth inequality can be tracked through the ownership of assets, defined by The Urban Institute as “stocks of resources” that “provide for future consumption and are a source of security against contingencies.”<sup>5</sup> Assets form a person’s net worth: an individual is



*Source: Erie.gov/state-and-regional-municipalities*

considered extremely asset poor if they have zero or negative net worth, according to the Corporation for Enterprise Development. And according to the United Way of Buffalo & Erie County’s 2011-2012 Community Needs Assessment, more than 20% of New Yorkers were considered ‘asset poor’ – 14% were labeled ‘extremely asset poor.’<sup>6</sup> Wealth poverty limits households’ investment in education, decreases civic participation, and lowers overall quality of life. And the largest asset category for individuals is homeownership – for 30% of Americans, their home is their only form of wealth – making it a vital area of study when discussing economic inequality.<sup>7</sup>

Moreover, when discussing the connection between housing and income inequality in Erie County, it is necessary to apply an intersectional lens and appreciate the relationship between race, poverty, and housing inequality in the area. Today, Buffalo Niagara’s white residents have a homeownership rate of 73.4%, while the city’s Black homeownership rate is only

28.9% – a gap of 44.5%.<sup>8</sup> Considering the importance of home equity for individual wealth building, this disparity clearly contributes to racial wealth inequality in the region, where the Black-white wealth gap is currently growing. A long and ongoing history of racist housing policies has contributed to this gap in home ownership, including restrictive covenants, redlining by banks, and predatory lending or “reverse redlining” that stripped equity from Black homeowners and forced many into mortgage foreclosures due to insurmountably high interest rates. It is with this context in mind that this report has been written, with the aim to bring specific awareness to how current property tax policy harms both low-to-moderate income and minority residents in Erie County.

## Policy Overview

In accordance with the New York State Real Property Tax Law – RPT § 924a – *Interest Rate on Late Payment of Taxes and Delinquencies*, the interest rate on delinquent property taxes (or back taxes) in New York State currently varies between 12% to 18%, depending on the county. These interest rates all must remain above the floor of 12% established by New York State and are unbound by a ceiling. Erie County currently charges its homeowners an annual interest rate of 18% on back taxes, a rate that the county established in 1989 and that has not evolved at all since.<sup>9</sup> The county’s back tax interest rate begins at 1.5% and increases an additional 1.5% per month while taxes remain delinquent until reaching 18%. This rate is almost 15% higher than today’s current prime rate of 3.25%, as of July 2020.<sup>10</sup> And high interest rates across New York are not unique to the state. A preliminary review of interest rates on neighboring states’ delinquent property taxes reveals an 18% annual interest rate in

Connecticut, 14% annual rate in Massachusetts, and a maximum 18% annual interest rate in New Jersey.<sup>11</sup> Advocates of the current interest rate on delinquent property taxes view interest as a method to encourage timely payment of taxes and to support a high tax collection rate. Opponents argue that the current interest rate harms homeowners who are already struggling and miss a lump-sum tax payment due to hardship.

## Objectives

This report aims to:

1. Outline the negative consequences of Erie County’s 18% interest rate on delinquent property taxes on both the county’s homeowners and the community as a whole.
2. Highlight specifically the burden placed on low-to-moderate income communities and communities of color within Erie County.

## Approach

High interest rates on delinquent property taxes have the potential to harm any homeowner, regardless of the community they live in. Homeowners in Erie County’s In Rem auction 167-169 owe, on average, \$2,271 in interest to the county. For the average auction homeowner, 43% of their total delinquent property tax debt is interest – interest is punitive toward anyone who falls behind. That being said, this report centers the experiences surrounding delinquent property tax interest rates of LMI (low-to-moderate income) and majority-minority zip codes in Erie County. Within Erie County, there is high overlap of these two communities, largely centered geographically in the City of Buffalo, and both communities have faced discrimination in the realm of property taxes, necessitating

study of this policy’s effect on them. Both minority and LMI homeowners, for example, have been affected by property tax assessment discrimination – properties in lower income and minority communities are assessed at a higher percentage of their market value than other properties on average.<sup>12</sup> Low-income homeowners and homeowners of color are also more likely to have more of their wealth concentrated in the ownership of their home. In 2010, home equity made up 44% of the average African American homeowner’s net worth and also 44% of the net worth of those in the lower-middle income quartile.<sup>13</sup>

Thus, these categories of homeowner will be more affected by policies that diminish home equity, such as delinquent property tax interest rates. Additionally, low-income and minority homeowners are two of the groups most vulnerable to property tax delinquency because they are two groups (alongside disabled and elderly homeowners) most likely to be paying their property taxes in an annual lump sum. Low-income homeowners may have family homes without a mortgage and an escrow account; many homeowners of color live in traditionally redlined neighborhoods without access to loan products (or even currently redlined – as recently as 2015, Evans Bank settled a lawsuit alleging that it cut African-American neighborhoods off from its “trade area” in Buffalo).<sup>14</sup> Homeowners in LMI and majority-minority zip codes are also disproportionately likely to have homes in the county’s In Rem auction, in which the county may auction off homes that are at least two years delinquent to the highest bidder. While only 14 of Erie County’s 67 zip codes are LMI, homes in LMI zip codes make up 37.4% – over one-third – of all homes in the county’s auction (see **Figure A** and **Figure B**). These consequences necessitate focus on Erie County’s low-income and minority communities.

To do so, the median individual income of each Erie County zip code was found using the US Census 2019 American Community Survey’s 5-year estimates (ACS). LMI status is given to zip codes that have a median income less than 80% of that of the county (or area) as a whole. 14 of 67 total zip codes were determined to meet this criterion (**Figure C**). ACS Survey Data identified seven zip codes within these 14 as also majority-minority: 14201, 14204, 14208, 14211, 14212, 14214, and 14215 (**Figure C**). Interest rate data was then analyzed for all 14 zip codes, with attention also paid to the seven zip codes where these two categories of community overlap. Of the

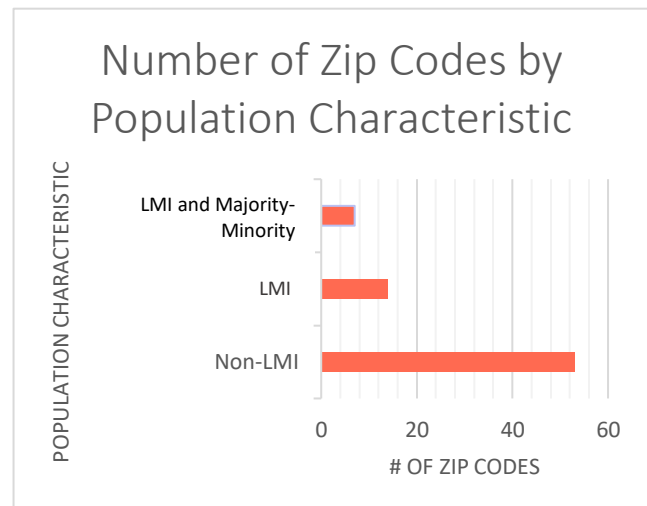


Figure A, Source: US Census 2019 ACS Survey

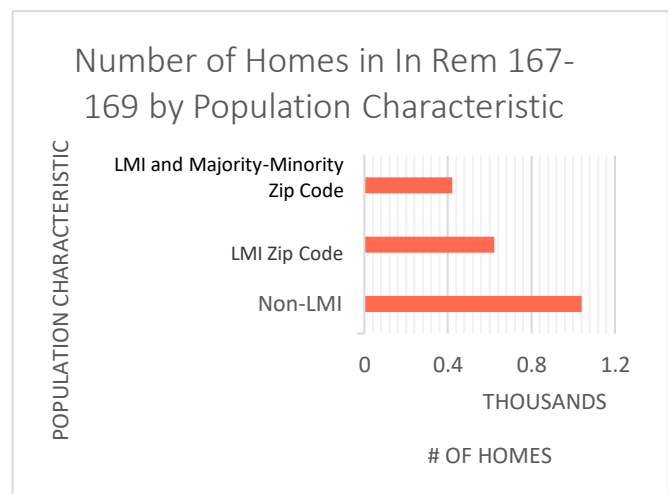


Figure B, Source: In Rem 167-169 Data Request



| Zip Code              | 14034    | 14070    | 14201    | 14204    | 14207    | 14208    | 14209    |
|-----------------------|----------|----------|----------|----------|----------|----------|----------|
| Median Income         | \$19,121 | \$22,909 | \$21,502 | \$18,144 | \$18,087 | \$18,209 | \$21,388 |
| % Non-white Residents | 1.1%     | 15.3%    | 56.1%    | 80.3%    | 41.9%    | 95.2%    | 49.6%    |

| Zip Code              | 14210    | 14211    | 14212    | 14213    | 14214    | 14215    | 14218    | Erie County |
|-----------------------|----------|----------|----------|----------|----------|----------|----------|-------------|
| Median Income         | \$23,572 | \$18,963 | \$18,933 | \$22,023 | \$23,434 | \$22,381 | \$23,158 | \$31,856    |
| % Non-white Residents | 18.8%    | 84.5%    | 53.9%    | 49.5%    | 50.6%    | 86.0%    | 19.2%    |             |

Figure C, Source: US Census 2019 ACS Survey

14 selected zip codes, 12 are located fully or partially within the City of Buffalo, while two, 14034 and 14070, are located in Collins and Gowanda, respectively.

This report analyzes listings of all delinquent 1-3 family homes and all 1-3 family homes placed on Erie County's In Rem Auctions 167, 168, and 169, as of June 14, 2021. Interviews with community leaders and local organizations provide context for the figures introduced.

## Data Discussion

### Interest as Percentage of Total Owed

The delinquent property tax interest rate in Erie County and other counties across New York State is both high (Erie County's

Interest as Percentage of Total Owed by LMI Zip Codes

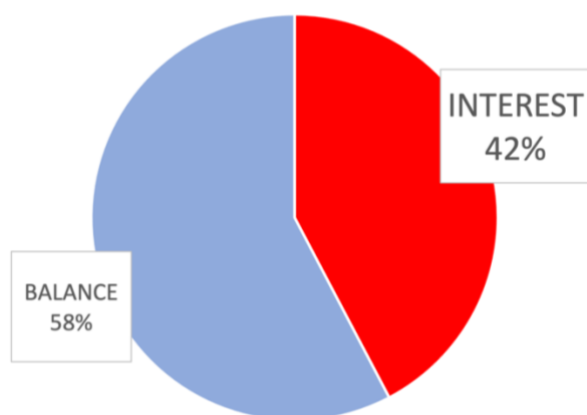


Figure D, Source: In Rem 167-169 Data Request

legal 18% interest rate exceeds New York State's civil usury limit for private loans and forbearances) and compounded. Once an owner falls behind on their property taxes, interest grows rapidly and quickly makes up a substantial amount of the total a homeowner owes. LMI-zip code homeowners with properties up for auction in 2019-2021 owed, on average, 41.4% of their total debt in interest. For households that are located in zip codes that are both LMI and majority-minority, interest makes up

Erie County 1-3 Family Residences in In Rem Auctions 167-169 (in LMI Zip Codes)

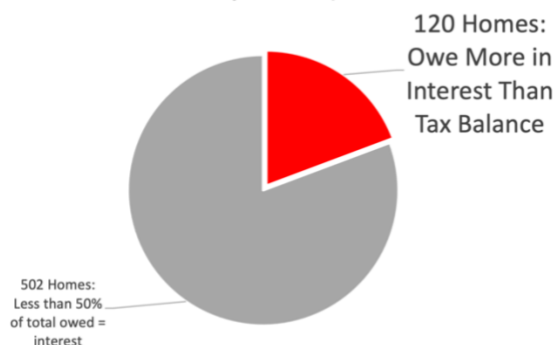


Figure E, Source: In Rem 167-169 Data Request

41.4%

of the total amount owed by homeowners in LMI zip codes was interest alone.

Nearly a quarter of auction-listed 1-3 Family Residences in LMI zip codes owed

over 50%

of their total in interest.

42.5% of the total amount owed. And aggregate data tells a similar story. Erie County homeowners in LMI zip codes owed a total of \$4,308,711 in delinquent property taxes, and \$1,822,478 of that total, or approximately 42%, came from interest alone (**Figure D**). These statistics demonstrate how the interest rate, which is considered a motivating factor by its advocates, becomes harshly punitive for LMI homeowners that fall behind. Even more, **Figure E** shows that of these 622 total LMI zip code 1-3 family residences represented in the auction data, nearly a fifth (120, or 19.3%) of them owe over 50% of their total in interest. **These homeowners owe more in interest to the county than they do in back taxes.**

Finally, as can be seen in **Figure F**, this interest rate is a high percentage of the total amount owed for all 14 selected zip codes, occupying the lowest percentage of total due in the 14034 zip code (on average, 30.92%) and the highest amount in the 14209 zip code (47.20% of the total due on average). **Figure F** also shows that majority-minority zip codes (pink bars) have some of the highest interest-to-total due ratios, where interest occupies a large amount of the homeowner's total burden. More analysis

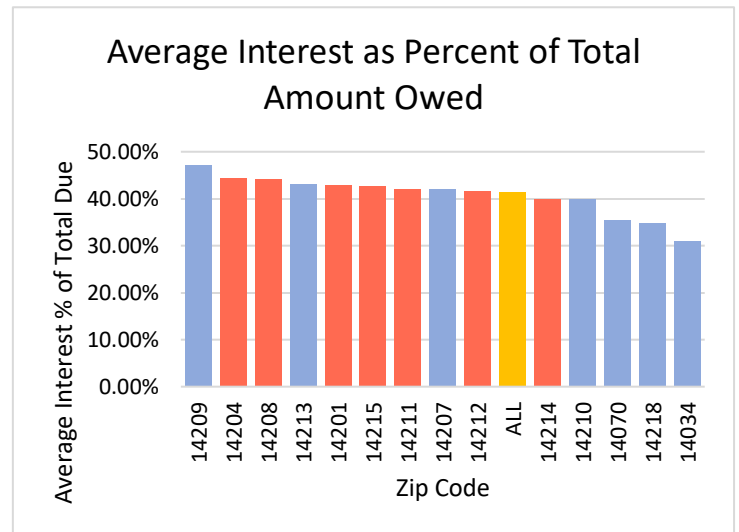


Figure F  
Source: In Rem auction 167-169 Data Request

should be done to determine why this occurs, but one hypothesis may be that properties in majority-minority zip codes are not foreclosed on or sold at auction as quickly, allowing interest to compound more heavily.

### Interest Growth

Every month that a homeowner remains behind on their taxes, the amount of interest that they owe to the county grows and compounds on top of itself, soon rising

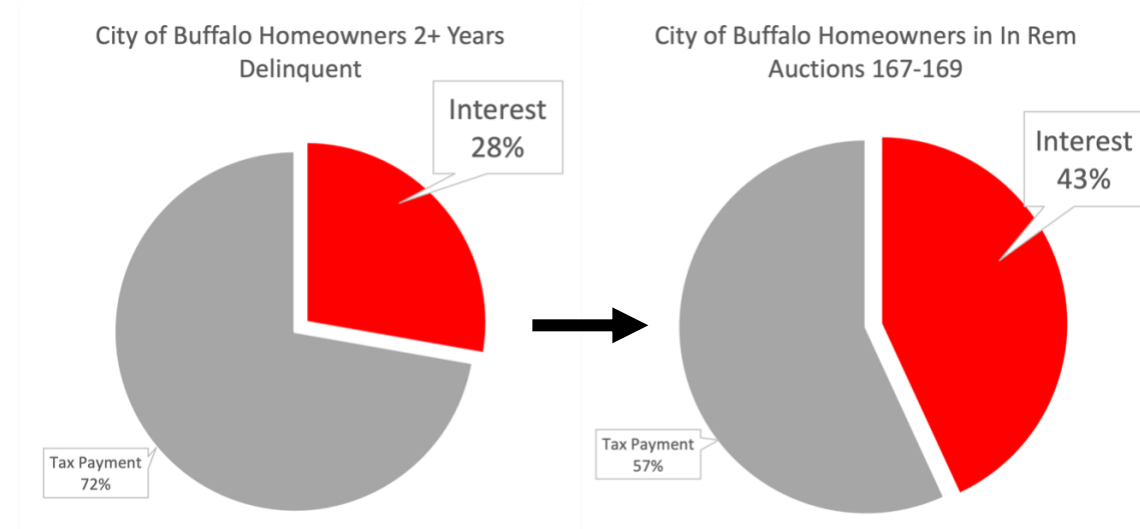


Figure G, Source: In Rem 167-169 Data Request and Erie County All Delinquent Properties Data Request

faster than the delinquent taxes they owe. And Erie County exacerbates this penalty by selectively choosing which homes it forecloses on and places on auction each year, leaving many eligible homes off the auction roll. While this policy seems useful for homeowners at first glance, it also leaves residents at a steep disadvantage when trying to pay off their delinquent taxes – the county will only offer home-saving payment plans to homeowners once they’ve entered foreclosure. In Rem auction homeowners owe much higher amounts of interest than they did when their homes were first eligible for foreclosure. The consequences are displayed in **Figure G**, which shows that City of Buffalo homeowners eligible for foreclosure (at least two years delinquent on their property taxes) owe 28% of their total

bill in interest on average. In contrast, for those homeowners that have properties at the auction, the interest has grown so much that it now makes up 43%, on average, of the total amount they owe to the county. A combination of a sky-high, compounding interest rate and a lack of access to helpful payment plans can build a wall of debt hard to climb over.

### *Interest as Share of Home Equity*

Not only does interest form a large share of the total balance owed by homeowners delinquent on their property taxes, it also eats away at home equity. Homeowners in Erie County owe thousands of dollars in interest alone (the average LMI-zip code homeowner in the In-Rem

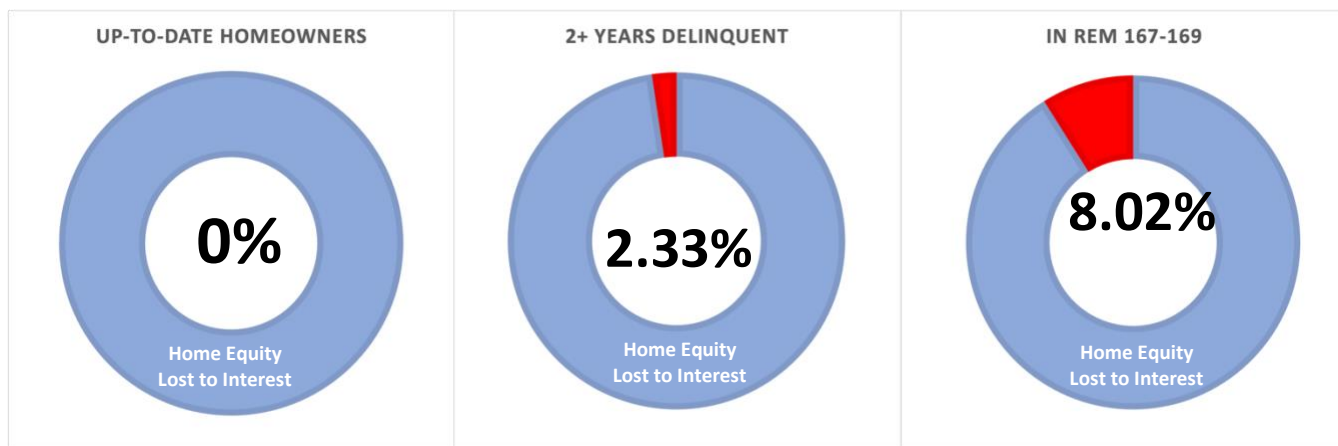


Figure H, Source: Erie County In Rem 167-169 Data Request, Erie County All Delinquent Properties Data Request

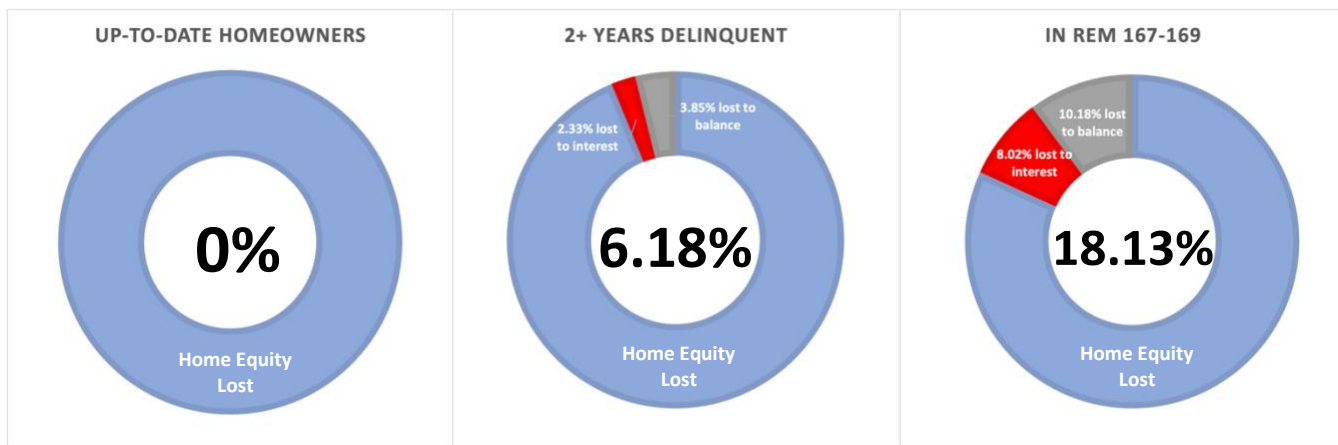


Figure I, Erie County In Rem 167-169 Data Request, Erie County All Delinquent Properties Data Request



### Household Monthly Income vs Interest Owed by In Rem 167-169 Homeowners in LMI Zip Codes

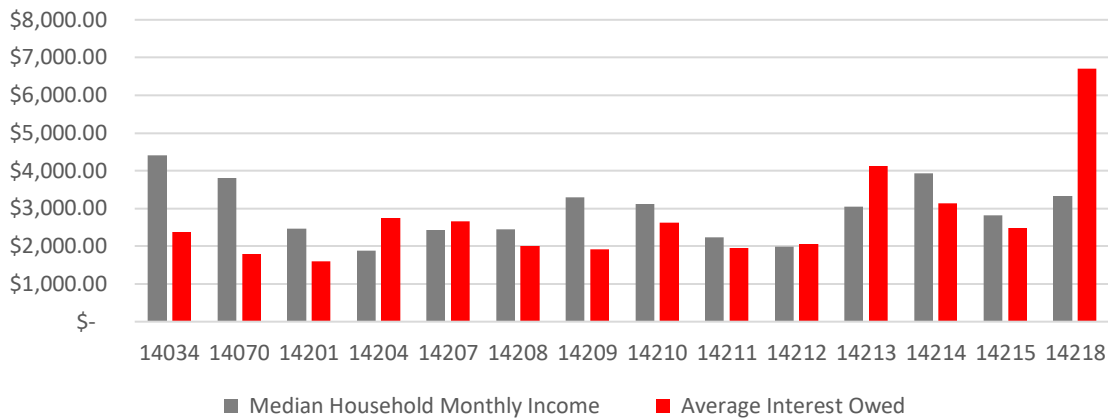


Figure J

Sources: American Community Survey, 2019 5-Year Estimates; Erie County In Rem 167-169 Data Request

data sample owes \$2,930.03 in interest), and housing prices in Erie County have historically been low (the United States Department of Housing and Urban Development describes the Housing Market Area of Erie and Niagara Counties as “very affordable”).<sup>15</sup> Taken together, these statistics make it easy for interest to rapidly eat away at the equity a homeowner holds in their property, wealth that a homeowner can use when they sell their property or when it is sold at auction by the county. As shown in **Figure H**, on average, interest cost an LMI zip code homeowner in In Rem auctions 167-169 8.02% of the assessed value of their property. The loss of equity to interest remains large when assessed values are equalized to Market Value. A homeowner in In Rem auctions 167-169 has lost, on average, nearly 7% (6.61%) of their home’s equalized Market Value. For homeowners not in the auction, interest was also harmful. LMI-zip code homeowners who were two or more years delinquent on their property taxes have lost, on average, 2.33% of the assessed value of their homes to interest (**Figure H**). It is important to note that these homes are eligible for foreclosure, but because Erie County does not foreclose on every eligible property, many of them are not on the auction list yet. Erie County’s process for selecting homes to foreclose on is not transparent, and homeowners left off

the auction continue to accrue interest and are largely denied access to the county’s tax payment plans. During this time, interest continues to accrue and the loss of home equity to interest grows. Further, racist housing policies and discrimination have caused homeowners of color to build home equity more slowly than white homeowners, making them more harmed by the loss of that equity to interest.<sup>16</sup>

#### Interest Compared to Household Monthly Income

One way to illustrate the burden of a high interest rate on LMI homeowners is through a comparison of interest and household monthly income. As shown in **Figure J**, the total amount of interest alone that a homeowner in a LMI zip code owes is often almost as high as their zip codes’ median household’s monthly income. In some cases, the interest

The average LMI zip code homeowner in In Rem 167-169 has lost

**8.02%**

of the assessed equity in their home to interest alone.

owed is even greater – for instance, in the 14204, 14207, 14212, 14213, and 14218 zip codes. All six of these zip codes are also majority-minority zip codes.

### *Delinquent Property Tax Interest Rate in Comparison*

As noted in the policy overview, Erie County’s interest rate of 18% on back taxes was set in 1989, a year in which the prime interest rate charged by banks was 11.5% and a decade in which prime interest rates reached as high as 20.5%.<sup>17</sup> The average rate

on a 30-year fixed-rate mortgage was 10-11%.<sup>18</sup> In this context, the interest rate on delinquent property taxes was high, but not overwhelmingly out of place. The current context today is very different. As shown in **Figure J**, the delinquent property tax interest rate is almost six times greater than today’s 3.25% prime rate, as of July 28, 2021. What’s more, Erie County’s interest rate on property back taxes today is even higher than the limit imposed upon private lenders by New York State’s current civil usury laws.

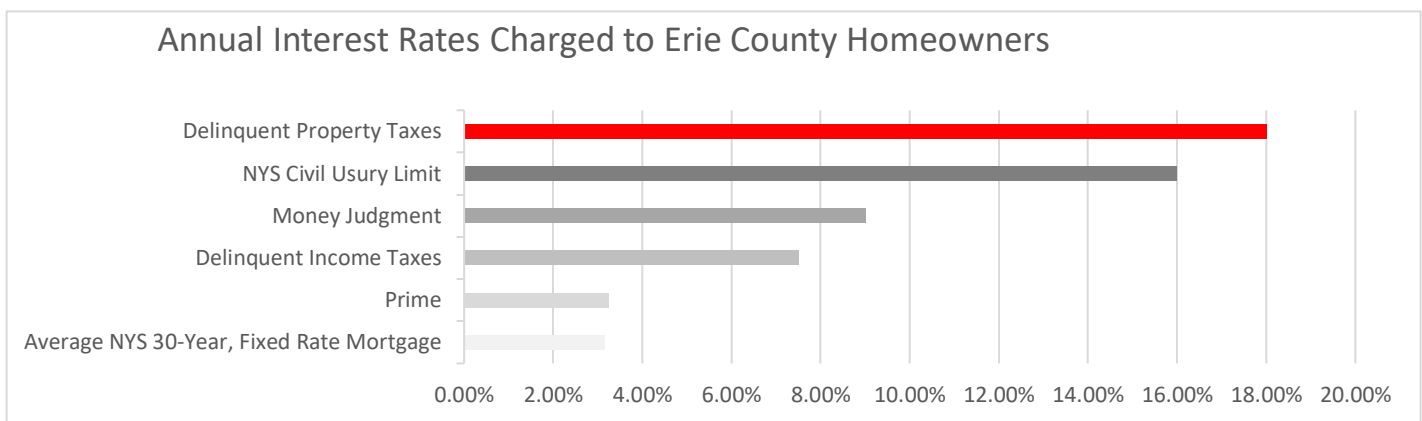


Figure K, numbers accurate as of July 28, 2021

## **Assessment of Policy Consequences**

### *Effects on Low Income and Minority Homeowners*

#### **1. Barrier to Catching Up**

The most conspicuous consequence of Erie County’s current 18% interest rate on delinquent property taxes is the added difficulty it creates for homeowners attempting to catch up on their property taxes. As discussed in the data analysis section, on average, over 40% of the total debt owed by homeowners in LMI zip codes is made up of interest and late fees.

Homeowners who are delinquent on their property taxes, then, have to pay almost double the amount of the taxes they fell behind on. And while other populations – wealthier residents in neighborhoods not discriminated against – may have access to credit cards, personal loans, or other borrowing options with a lower interest rate that allow them to evade the 18% penalty, many low-income homeowners and homeowners of color have historically been denied access to credit or the banking services required to obtain a more reasonable rate of interest.

Even solutions with negative consequences for homeowners, like filing Chapter 13 bankruptcy, which allows homeowners to make payments through a

five-year plan, are often out of reach for low-income and minority homeowners who have fallen behind on their property taxes. The high amount of interest owed can often make even bankruptcy unaffordable for tax-delinquent homeowners, especially if the county has waited years to foreclose on their property and offer access to a payment plan, time during which heavy amounts of interest continue to accrue. (While tens of thousands of properties sit on the county's delinquent property list each year, the county only places a couple thousand on the auction block). And even when the county does offer a resident a payment plan, many times the installments prove too expensive thanks to a total-owed amount driven up exponentially by interest.

## **2. Loss of Generational Wealth**

At the same time that homeowners are falling deeper behind in their property taxes and losing ability to catch up, they are also losing thousands of dollars to interest over just a handful of years. This loss effectively strips away home equity, equity that is often needed when homeowners' properties are foreclosed on and residents need to transition to a new home. As identified in the data analysis section of this report, homeowners in LMI zip codes in Erie County lost, on average, over 8% of the estimated market values of their homes due to the interest on their delinquent taxes alone. Given that home equity makes up approximately 44% of a lower-middle income homeowner's net worth (pg. 5), the interest on delinquent property taxes deprives homeowners of 3.5% of their total, accumulated wealth (based on assessed home value). And on average, the lower the income of a homeowner, the greater share of their wealth is made up of the value of their home, which means that this interest rate has

a disparate impact on the wealth of low-to-moderate income Erie County residents.<sup>19</sup>

Homes are also an important form of equity because real estate is a productive asset that consistently appreciates in the long-term and can easily be transferred to future generations, all reasons why home ownership is the most common way American families build generational wealth. Residents can use the equity in their homes to finance college costs, consolidate debt, or purchase a new home. Unfortunately, Erie County's high interest rate disrupts this process for low-to-moderate income homeowners and homeowners of color. Every month that a homeowner remains delinquent on their property taxes, interest adds to the debt they will have to pay and thereby decreases the final amount of liquid wealth a homeowner would receive by selling their property. As discussed in the data analysis section of this report, LMI-zip code homeowners in In Rem 167-169 owed, on average, 7% of the equalized, market value of their home to interest alone. That loss of wealth, which could go toward future generations, will be felt as soon as the home is sold.

## **3. Economic Instability and Homelessness**

Another way the interest rate takes home equity away from these Western New Yorkers is via the tax foreclosure process. When high amounts of interest make it difficult for homeowners to catch up on their taxes, these residents are at greater risk of tax foreclosure. Once Erie County sells a home at an In Rem auction, homeowners may apply to receive the surplus funds, the money left over after taxes and interest have been paid off. Unfortunately, Erie County doesn't inform homeowners of the surpluses, so many homeowners find out through social networks, legal aid clinics, or not at all. (All homeowners used to be

entitled to these funds, but that recently changed in Buffalo as a result of alterations to the city's foreclosure process).<sup>20</sup> High interest strips away the amount of surplus funds available for foreclosed-on residents, money that is often needed to relocate, afford necessities, or plan for the future.

Without access to the wealth of their property, and without their physical home, many homeowners are left to rely on family or their municipality to relocate. And forced relocations are harmful to Erie County residents. According to a 2018 Partnership for the Public Good report, a resident's likelihood of losing their job increases 11-22% when they experience a forced move, and those who start a new job earn 17% less than they would have had they remained continuously employed.<sup>21</sup> The most consequential version of forced home displacement is homelessness. The seven LMI and majority-minority zip codes studied in this report are all within the top ten zip codes of people who have lost their permanent housing, according to a study by the Homeless Alliance of Western New York.<sup>22</sup>

Being unhoused puts individuals at greater risk of experiencing violence, substance use, and socioeconomic vulnerability. But it also has large effects on the entire community. In Erie County, it costs \$21,900 per year to house a resident in an emergency shelter and \$22,989 annually for a bed in transitional housing.<sup>23</sup> Thus, the burden of economic instability and possible homelessness perpetuated by the high interest rate on property back taxes is felt not just by the homeowner but by the municipality and its taxpayers as well.

#### 4. Not an Incentive

Despite the negative consequences and risks imposed on homeowners who fall behind on their property taxes, some

advocates of the current interest rate support the high percentage since they view it as an incentive for property owners to stay current on their taxes and a proper penalty for those who do not or who try to evade the property tax system.

Unfortunately, this popularly held belief is misguided. First, a punitive incentive is only effective if the persons affected by it know it exists – and many Erie County homeowners who fall behind on their property taxes don't know what the interest rate on their delinquent taxes is. According to Charlotte Werner-Kohler, a staff attorney at the Western New York Law Center, most clients have no idea that there is 18% interest charged on delinquent property taxes, and she is often the one to inform them. She explains that on the tax bills homeowners receive, it often shows how the amount owed rises as time goes on, but it doesn't make any mention of the interest rate being applied or its compounding nature. Instead of an incentive, Werner-Kohler views the interest rate as a punishment.

Second, many of these homeowners cannot afford their annual tax bill in a lump sum, whether or not they have been incentivized to pay it. Jenna DeAngelo, analyst at the Lincoln Institute of Land Policy, notes that approximately half of

It costs

**\$22,989**

annually to house an Erie County resident in transitional housing, or

**\$45,978**

for a two-person home, the average size in Erie County; the average LMI zip code homeowner in In Rem 167-169 owes

**\$6,927**

to the county.

households in the United States have “practically no savings to cover an unexpected expense” and argues that the chief reason homeowners become tax delinquent is an inability to pay.<sup>24</sup> Low-to-moderate income homeowners are often living paycheck to paycheck, and an income shock or life event can easily disrupt a homeowner’s ability to make timely property tax payments. A focus group study at the City University of New York’s Housing Environments Research Group found that many focus group participants’ (mortgage) delinquency ultimately stemmed from large life events like having a baby, getting sick, or the death of a family member.<sup>25</sup> For these homeowners, the high interest rate offers no incentive, but simply a punishment on top of an already serious financial change.

This problem is exacerbated by the system of tax collection in Erie County, which requires taxpayers to pay their property taxes yearly in a large, lump-sum payment. (Mortgage holders are unaffected by this requirement since their taxes are covered by their escrow and paid for monthly). When a homeowner on fixed or reduced income, then, has an unexpected bill right before taxes are due – a death in the family, illness, a car breaking down, etc. – it is easy to miss that large tax payment and immediately fall behind. This burden is specific to homeowners, which is unfortunate in Erie County where it is generally less burdensome to own a home than it is to rent. According to the City of Buffalo’s 2017 Buffalo Housing Opportunity Strategy, the typical Buffalo home is affordable to a household with an annual income of \$23,000, while the average city apartment’s rent is affordable to a household making \$28,000 annually.<sup>26</sup>

The affordability of homeownership is especially conspicuous for those in family homes with paid-off mortgages. Using a

median home price of \$179,900, the average annual property tax amount for an Erie County homeowner is \$4,641, or approximately \$371.15 per month.<sup>27</sup> In contrast, the average rent in Erie County in 2019 was \$855 monthly.<sup>28</sup> For those Erie County homeowners living in homes with paid-off mortgages, homeownership is much more economical than renting. Unfortunately, however, the county’s property tax payment structure offers no flexibility to homeowners and can make property tax payment uncomfortable or unmanageable to lower-income residents when unexpected life events occur.

## *Effects on Communities*

### **1. Neighborhoods**

Tax delinquency does not just affect the homeowner who falls behind, but also those that live near them, making the problem of high interest rates a community issue. A 2013 study commissioned in Philadelphia, the most property-tax delinquent city in the United States, estimates a median loss in value of \$15,200 for homes located near tax-delinquent properties.<sup>29</sup> And there need not be many delinquent properties in the area for nearby homeowners to feel adverse effects. A Cleveland study found that the addition of

The average Erie County homeowner owes \$4,641 a year, or **\$371.15** per month, in property taxes; the average rent in Erie County costs **\$855** monthly.



one property that has become delinquent within one to three years in a Cleveland Census Block reduces that block's average home price by \$6,310 to \$12,872.<sup>30</sup> Most often, the decline in nearby property values is due to visible deterioration, or deferred maintenance, of a delinquent property, which may be marked by code violations for issues like overgrown grass, a roof in need of repair, or a backyard pool that isn't covered securely.

Nearby homeowners in Erie County are clearly aware of how visible deferred maintenance affects their properties – the chief way by which code enforcement become aware of a property with deferred maintenance is through neighbor complaints. Although Town of Evans Code Enforcement Officer Jeneen Hill isn't personally sure whether nearby property values are affected by deferred maintenance, she does receive complaints from neighbors on the subject and even from realtors who say they're struggling to sell a home next door or on the same street.

The relationship between tax delinquency and deferred maintenance in Buffalo can be seen in **Figure L**. City of Buffalo zip codes with a large number of properties two or more years delinquent on property taxes also have higher quantities of code violations.

It is further important to note the particular danger of deferred maintenance due to tax foreclosure or delinquency on middle neighborhoods, of which there are many in Buffalo. These neighborhoods are traditionally middle class, but they are capable of either deteriorating further or seeing skyrocketing housing sales due to even one outside factor. In these neighborhoods, Housing Rehab Program Manager at the Matt Urban Center Christina Lincoln says that deferred maintenance on a roof could have “a very large impact immediately.” One example of a middle

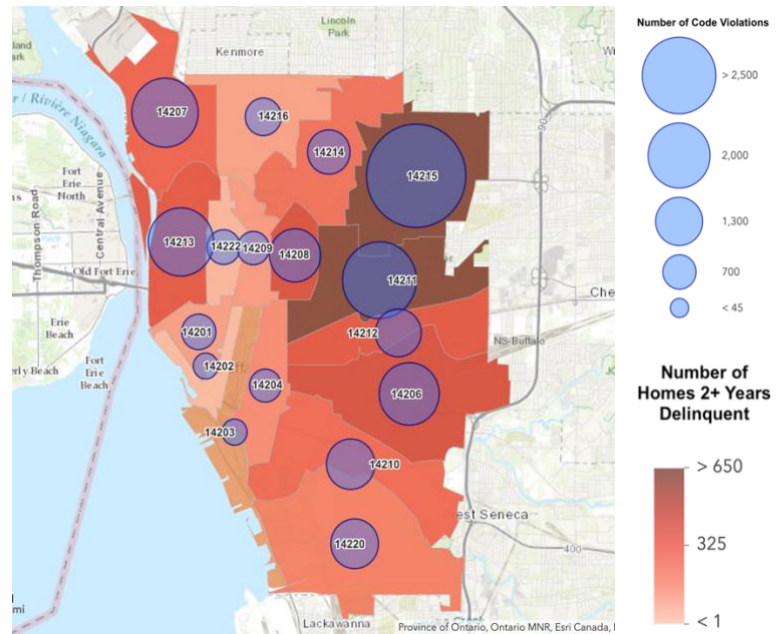


Figure L, Sources: Open Data Buffalo and Erie County Real Property Data Request

neighborhood in Buffalo is the LaSalle neighborhood, which splits the 14214 and 14215 zip codes, both of which are identified as LMI and majority-minority (see **Figure C**). LaSalle is home to a large African American community and is currently battling both rising poverty and a trend of homeowners being replaced by absentee owners. Homeownership in the neighborhood declined from 66% in 2000 to 52% in 2016.<sup>31</sup> In a neighborhood like LaSalle, a vacant or deferred maintenance property can increase the decline of the neighborhood or create dangerous community instability.

## 2. Community Programs

Fortunately, Erie County has in place a variety of programs to help homeowners facing deferred maintenance or emergency housing needs, such as a broken roof or lead paint in the walls of a home with young children. These programs, which are funded by the US Department of Housing and Urban Development (or HUD), target their

funding toward LMI residents and sometimes even specific “target” neighborhoods. A large program is overseen and run by the county itself; within the City of Buffalo, another program’s operations are split between four community organizations that each cover a different geographic zone of the city.

One of these programs is administered for the city by the Matt Urban Center, and Lincoln explains that this division of work across Buffalo gives the program greater capacity to help residents and also provides a convenient location for low-income Buffalonians, many of whom rely upon public transportation or walking. Staff at organizations like the Matt Urban Center work diligently to support their clients, keeping records of homeowners they’ve spoken to five or more years ago and providing expensive repairs like new roofs, which can run a homeowner \$17,000-\$20,000 or more according to Lincoln. Matthew Fisher, Erie County’s Lead Housing Specialist and overseer of the county’s Housing Rehabilitation Program, can speak to the value of the work these organizations do for homeowners and communities. He notes that “when you’re able to take care of those few houses on a block... it raises the whole street.” These programs help hundreds of residents with home repairs every year; there are currently 73 residents on Matthew Fisher’s repairs list, and the Matt Urban Center aided 96 residents from 2018-2020.

Unfortunately, for all the good these programs do, they are near-completely out of reach for homeowners delinquent on their property taxes (while the Matt Urban Center does work with homeowners who are on hard-to-get-on payment plans, Erie County’s program does not). And many delinquent taxpayers have homes needing repair – Fisher estimates that about 10% of residents that call seeking aid are rejected from the

program as a result of being behind on their taxes no matter how urgent their situation may be (in contrast, if a resident with emergency need suddenly caught up on their taxes, the Erie County Housing Rehabilitation Program’s system would automatically move them to the top of its waitlist). These programs are run by the city and the county with the good-faith intention of helping low-income homeowners. But harmful interest rates on delinquent property taxes disqualify many of those most in need and actively work against the region’s efforts to support vulnerable homeowners.

### **3. Community Growth**

When valuable housing programs like those administered by the Matt Urban Center or Erie County are left inaccessible to homeowners who have fallen behind on their tax plans, deferred maintenance emerges. Unimproved houses or houses in need of repair do not only affect the prices of the properties nearby, as discussed previously, but they also affect the rest of the municipality by limiting the growth of a city or town’s tax base – a figure that grows when homeowners are able to improve their properties. There are also disincentives for higher-income homeowners to improve their properties and raise the municipal tax base. If all homes in a municipality rise in value at the same rate, then no one homeowner’s property tax bill will increase dramatically because community collections are capped at a 2% annual increase or less.<sup>32</sup>

But if abandoned properties or homes with deferred maintenance continue to drag down the municipality’s tax base, then those higher-income homeowners who can afford to make improvements on their properties will see their assessments rise in comparison to the other properties in their community, causing them to pay much more in property taxes. Thus, high interest rates

that trap homeowners in tax delinquency do not just encourage neighborhood instability, but they also lead to lower tax bases by discouraging investment both by tax-delinquent homeowners and those with the monetary resources to invest.

## Recommendations

Based on the findings of this report, the following policy changes are recommended:

1. New York State should eliminate the current floor of 12% on the interest rate on delinquent property taxes and instead establish a cap that is in line with other interest rates charged today. A recommended figure is 7.5%, which is the interest rate charged on late payments for other types of taxes in New York, including income and estate taxes. 7.5% is still high enough to incentivize the timely payment of property taxes – it remains well above the current prime rate of 3.25% – but it is much less punitive than the current 18% interest rate that counties in New York like Erie County charge to residents.

The State of Maine recently enacted a similar policy change for the taxable year 2021, establishing a 6% cap on the interest rate applied to delinquent property taxes. Maine already had a progressive model in place for determining the interest rate, fixing it at no more than 3 percent above the current prime rate, but decided to drop the rate even lower to help Mainers navigate COVID-19 hardships. In describing this policy decision, Maine Treasurer Henry Beck noted that higher interest rates would be “unnecessary

penalties” to charge Mainers. New York State should similarly reevaluate the burdens it expects its residents to bear.

2. Erie County should begin allowing residents to pay their property taxes monthly in installments rather than once per year in a lump sum. Many clients interviewed could have afforded their taxes (or caught up quickly) had they been broken up by month, but a large bill due once a year allows for a life event to easily disrupt a homeowner’s ability to pay and put them behind. Homeowners with a mortgage are already offered this monthly version of tax payment through the escrow account attached to their mortgage; Erie County should make monthly tax payments an option for all homeowners to increase the flexibility of the tax payment system and ease the burden of large tax balances.
3. Erie County should begin offering payment plans to residents before they enter tax foreclosure. For many delinquent homeowners, monthly installment plans are a ladder out of debt once they enter foreclosure, allowing them to break up the amount due instead of needing to save large amounts of money to make large, lump-sum payments. But by limiting this benefit to homeowners in foreclosure, the county allows the amount of interest residents owe to continue building until eventually even these payment plans are unaffordable for some residents. By expanding payment plan eligibility, the county will be able to work with homeowners to recuperate delinquent taxes and keep many residential properties off the In Rem auction.

4. The Erie County government should increase its transparency regarding the tax delinquency and foreclosure process and communicate better with homeowners. This includes proactively notifying homeowners whose homes have been sold at auction about their available surplus funds. These funds can assist the transition to a new home or pay off other bills. But according to Kate Lockhart at the Western New York Law Center, many residents do not know they have that money available to them. Further, as discussed previously in this report, Erie County does not foreclose on every eligible property each year, and the process through which the county decides which homes to foreclose on is opaque. Erie County officials should make this process more transparent to decrease homeowner anxiety and increase community stability.

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