

Going, Going, Gone: Selling Out the Homeowners^{1,3}

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Abstract:

Inequities in housing conditions and political power among neighborhoods in a small, economically distressed city have been aggravated by a strategy of auctioning tax-delinquent properties. The city's auction policies and their implementation are so flawed that they are reducing already low rates of homeownership, adding to the proliferation of vacant buildings and aggravating the financial losses from a shrinking tax base. These negative consequences disproportionately affect residents of the city's poorest neighborhoods.

Introduction

In the high school auditorium, some 50 people perch in folding seats at the auction. Some people are dressed in suits, others in work clothes. A knot of men work a cell phone and consult a map of the city of Brineburg as color slides of buildings for sale flash on a screen. A few bemused couples with children sit in the back rows. On the low stage, a professional auctioneer jollies the group along with his practiced patter, touting the bargains. As the next slide comes up and he reads the address, someone in the audience calls out that the wrong house is pictured, and city officials behind the auctioneer huddle in consternation. Yet the real drama is not inside the school auditorium but out in the neighborhoods of Brineburg, where residents will soon be evicted from these houses by the new owners.

In this paper, I analyze how municipal housing policies are played out in an unequal contest between political power and citizens' concerns. On the national level, many initiatives have been launched to increase homeownership, but locally these policies may be undercut by short-sighted tactics to boost revenues. My ongoing research in the small New England city of Brineburg (a pseudonym) involves discussions with city officials, staff of a community advocacy group, social service agencies, and the people most directly affected by the tax auctions – those who face losing their property and those who bid on it. I have also analyzed the city's own records on sales price, current status, ownership, and tax delinquency for all the properties sold at auction between June 1996 and August 2000, with a particular focus on the 365 residential properties (one-, two-, and three-family houses). This research leads me to conclude that both Brineburg's auction policies and their implementation are so flawed that: 1) they are causing a reduction in homeownership; 2) they are partly responsible for the alarming proliferation of vacant buildings in Brineburg; and 3) they are aggravating the losses from a shrinking tax base. These

negative consequences also disproportionately affect residents of the city's poorest neighborhoods.

Declining Tax Revenues vs. Homeownership Policy

Brineburg has a confused, even schizophrenic approach to homeownership. On one hand, elected officials profess concern about the city's rate of owner-occupancy, which is less than 42 percent – more than 20 percentage points below regional and national rates. In four of the city's poorest neighborhoods, fewer than 20 percent of residents own their homes. Brineburg officials channel substantial shares of their federal block-grant funds to nonprofit housing agencies that build new homes – virtually the only new housing construction in the city – or to rehab older ones. On the other hand, the city administration attempts to manipulate those agencies for its own purposes, such as patronage jobs for relatives and political supporters. The current mayor even abolished, by fiat, a housing agency created by his predecessor. The administration lacks a clearly articulated housing policy, and thus it is not surprising that its support for homeownership is easily overridden by other priorities.

While the rest of the nation enjoys prosperity, much of the Northeast languishes in continuing recession, with factory closings, underemployment, and declining property values. In Brineburg, poor financial management has added to the squeeze on city coffers. Over the past 40 years, the city has failed to collect some \$27 million in city and school taxes. Few sanctions were applied to delinquent property owners, and tax bills were allowed to accumulate. This created a false sense of security for some people, a conviction that they would never be forced out of their homes for an inability to pay all their taxes. Several years ago, the mayor proposed privatizing the collection effort. A nationwide firm was courted to buy tax liens on 1,500 properties and to then apply its own collection efforts. This deal eventually fell apart.

The Flawed Solution: Tax Auctions

In a scramble to find new revenues and a message to delinquent property owners, city officials decided six years ago to resort to tax auctions. In late winter of 1995 the first notices went out, ordering owners to pay up or lose their buildings at auction. When a building is sold, the tax debt is wiped out, and the city typically receives only pennies on the dollar for the amount owed. The minimum bid is \$1,000 or 10 percent of the amount of tax delinquency, whichever is higher. The city does not seize the property from its owner until after it is sold at auction, so prospective buyers have no legal means to inspect the buildings beforehand. The highest bidders at the auction are required to pay a 10 percent down payment, plus auctioneer's fee, and most buyers are allowed only two weeks to come up with the remainder of the purchase price.

Lack of a Coherent Policy

There has never been any explanation for how city officials select particular tax-delinquent properties for auction. The owners of as many as half the properties in some neighborhoods owe taxes on them, and recent auction lists contain some buildings whose taxes have not been paid since the 1980s, so clearly they would have been eligible for auction before. Brineburg officials also refuse to include vacant lots (with the exception of a few commercially zoned parcels), even though the city already owns hundreds of them and could seize many more for nonpayment of taxes. When I pressed for an explanation, officials told me that residential lots would not sell for enough to make it worth their while. However, Brineburg faces a budget crisis so serious that its bond rating was repeatedly downgraded and the city has had to resort to short-term borrowing to meet expenses; pursuing even small sources of income from auctioning lots seems prudent. Sale of these properties could put them back onto the tax rolls and eliminate the city's liability and cleanup costs for the lots it now owns. Furthermore, auctioning vacant land would not entail any loss of homeownership.

Policy and procedures for the city auctions have been decided with minimal public input and are open to fraud. A city councilor was forced to resign under threat of indictment when his shady deal with a real estate broker was revealed. The two convinced city officials to remove a desirable home from the auction list on the morning it was to be sold, under pretense that the broker had provided its owner with financing to pay off the back taxes. Instead, the broker paid the mentally

challenged owner a fraction of what the house might have brought at auction, forcing him to move out. The city councilor then took over the house as his residence. Other councilors have arranged to have influential constituents' properties removed from the auction lists, sometimes repeatedly. However, the city council has declined to pass any legislation to modify the administration's auction policies, leaving them to the discretion of non-elected bureaucrats.

When the second auction was held, a community group picketed outside. With posters and chants, the group dramatized its contention that the City of Brineburg is responsible for driving out owner-occupants and replacing them with slumlords. City officials then agreed to set aside part of the 1997 auction for bidding exclusively by potential owner-occupants, and to limit purchases in the rest of the auction to five properties per buyer. But bidders still can get no access to the houses beforehand and still have only two weeks to close the sale. At that auction, 11 homes were sold to buyers who were supposed to occupy them, although two years later not a single house appeared to have a homeowner in it. For the 1998 auction, Brineburg officials eliminated the bidding period set aside for prospective owner-occupants, with the excuse that "it didn't go very well last time." The city also abandoned its limit on the number of sales to each bidder. However, under pressure from the community group, the city did allow it and a nonprofit housing agency to jointly choose four homes from the auction list and buy them. One was demolished and the others rehabilitated and sold to owner-occupants.

Procedural Problems

Brineburg officials have been fairly inept at enforcing their own auction policies. Although people who owe taxes or fines on any property in the city are prohibited from bidding, the spirit if not the letter of this rule has been flouted often. Some investors simply have others buy houses for them and then transfer the properties to their own name. One landlord who owes more than \$60,000 in back taxes and housing-court fines got his sister to buy a two-family house at auction and added it to his rental empire. Another landlord who lost 24 tax-delinquent properties at the first year's auctions has a son who bought 22 buildings. Although Brineburg officials announced that they would pre-register bidders in advance of the auction to allow time to check their backgrounds, this has not been done.

A recurring problem with the way the auctions are conducted apparently stems from Brineburg officials'

lack of familiarity with the tax-delinquent properties. The bid packets that are offered a couple of weeks before each auction contain a photocopied picture of the building, with information on its zoning, the name of the owner, the size of the lot, and very little else. Often even the photos are missing. Despite promises by the head of the city's real estate division, his department has failed to consistently provide even basic data in city files, such as the number of bedrooms and bathrooms, square footage, housing-code violations, historic property designation, or the number of apartments in multifamily buildings. Brineburg hires a professional auctioneer, and his firm is responsible for photographing the buildings portrayed in the bid packets and in the slides displayed at the auction. At virtually every auction, buildings are misidentified and the wrong picture is shown. Brineburg officials usually do not catch these errors; rather, people in the audience point them out.

In one case the mistake was not discovered for nearly a month after the auction. Quinn (all names are pseudonyms), an investor from the suburbs, was the high bidder on 310 Indian Avenue, shown as a brick apartment building. After paying \$6,000, he took his crew to clean out the vacant structure and start rehabilitating it. One day a man drove up and demanded to know what the workers were doing in his building. Quinn explained that he had bought it at auction, but the man denied any tax delinquency, and eventually they realized that two different buildings were involved. The one under rehabilitation was 320 Indian Avenue – not 310 – and the house that Quinn actually bought was the dilapidated frame structure two doors down, its roof partially burned off in a fire several years before. Both vacant buildings lacked address numbers, a common housing-code violation that is seldom cited by Brineburg inspectors. Quinn demanded his money back from city officials but they refused, blaming the mistaken photo on the auction company, and the auctioneer blamed the error on the city. Eventually Quinn rehabilitated the frame building that he was stuck with, giving it a reprieve from almost certain collapse or demolition.

Most mistakes do not have such quasi-happy endings. Sarah bought a large brick house at auction, hoping to provide a home for herself and her son. However, the city did not disclose that the roof had collapsed nor that the house was in a historic district, requiring that its renovation be done in accordance with historic standards. Neighboring houses that are being rehabilitated by a nonprofit agency have incurred costs in excess of \$100,000 each, which is nearly six times

Sarah's annual salary. Disillusioned, she abandoned the house, and the city has since demolished it.

The Dilemma of Tax Trusts

To avoid having their homes auctioned off, owner-occupants of residential properties can (in theory) arrange for a tax trust, an agreement to pay their back taxes off in monthly installments. To be considered for a tax trust, the owner is required to pay all the current year's taxes and water bill, plus 10 percent of the arrearage. This down payment can entail thousands of dollars, an impossible sum for households with limited incomes. Also, the remainder must be paid off within a term as short as one year.

At the time of the first auction in June 1996, few homeowners sought to establish tax trusts nor heeded the city's warning letters, even when auction signs appeared on their front lawns. There was no coherent plan for contacting or aiding tax-delinquent homeowners, and only a few were rescued through the intervention of a community organization or by individual neighbors.

A social service agency that provides housing counseling for the elderly and disabled was belatedly consulted by city officials after the first auction, when five aged homeowners were evicted by the new buyers. This agency's counselors, appalled at the plight of the newly homeless senior citizens, worked out an arrangement with Brineburg officials before the next auction. The arrangement allows elderly or disabled homeowners who consult the agency's counselors to petition for a one-year reprieve from the auction process, giving them time to raise money for their taxes or to find other living arrangements if their home cannot be saved. Although this agreement was not widely publicized, the agency counseled 58 homeowners before the two subsequent auctions. Approximately half of them lost their houses to auction, despite the agency's intervention.

Catering to Investors

Several of Brineburg's auction policies and practices foster a turnover of owner-occupied properties to investors. First, the collection of tax revenues is given higher priority than are preservation and expansion of homeownership. The former head of the city's real estate division asserted that the auctions are only a by-product of Brineburg's tax-collection effort, which was his primary concern. He touted the receipt of nearly \$4 million from property owners threatened with the first

two auctions and he pointed out that only a fraction of the properties were eventually auctioned because their owners had failed to pay the taxes. City officials insist that, by law, they cannot grant special dispensations to owner-occupants.

The way in which the auctions are conducted also puts prospective owner-occupants at a disadvantage. Because Brineburg does not take title to the tax-delinquent buildings until *after* it has a contract to sell them, prospective buyers have no legal way to inspect them before purchase. While would-be homeowners are extremely wary about buying “a pig in a poke,” investors with sufficient capital know that their risks are spread out by purchasing several properties, skimming profits from the best ones, and abandoning the rest.

Initially Brineburg officials required all buyers to close the deal only two weeks after the auction. This policy virtually precluded financing from lending institutions. Banks and mortgage companies require an appraisal and an insurance policy before they will loan money on a house, and two weeks is simply not long enough to arrange this, even if the prospective buyer is pre-approved for a loan. Since a public hearing in 1999 (at which I presented my preliminary findings on the results of the tax auctions), prospective owner-occupants are granted 45 days after the auction to close the sale. However, even this is a very short time to arrange financing, and so city policy still favors bidders who have their own source of capital. Two of the investors who each bought multiple buildings also own convenience stores, and another buyer is a wealthy out-of-town physician seeking to invest retirement funds. Real estate brokers, appraisers, and speculators from distant parts of the country have become active at recent auctions. Thus families who hope that the auction will give them a chance to buy a home with their modest savings must bid against investors with greater access to capital.

When houses are sold at auction, the City of Brineburg assumes no responsibility for evicting the persons living there; that is up to the new owners. First-time homebuyers who contemplate purchasing a house at the auction are often intimidated at the prospect of removing the current residents. Also, if a house on the auction list is occupied, prospective buyers are unlikely to gain access so they can determine its condition. In contrast, vacant buildings in Brineburg are seldom secured for long; almost anyone can find a way inside through a broken window or a door that has been pried open. Thus inexperienced buyers may have incentives to bid on properties that are vacant but require much

more costly rehabilitation than do houses that have been maintained by their resident owners. Investors who have few qualms about evicting occupants may be more inclined to purchase homes lived in by their owners, thus driving up the price. Indeed, there has been a pattern of investors and real estate brokers acquiring houses at auction and reselling them at profits of as much as 700 percent to first-time homebuyers.

Community Response

Television and newspaper critiques of the auction process have resulted mostly in defensive rhetoric by Brineburg officials. Although a community organization has demanded explanations and made recommendations, those are often ignored by city officials who dismiss the group as radicals. Brineburg’s latest attempt at citizen-participation planning consists of several geographically based councils that the administration has grandiosely dubbed Visions of Tomorrow. These councils have been kept busy with an interminable “visioning” process that mostly ignores gritty neighborhood realities such as homeowners losing their houses to auction and investors taking them over.

The Auctions’ Consequences

Brineburg’s almost five-year experience with tax auctions has produced a host of unintended consequences that city officials seem reluctant to acknowledge or address. If anything, officials are becoming more secretive, refusing to publicly announce the date of the next auction, even though a series of warning letters has gone out to owners of tax-delinquent properties.

Over the course of seven auctions between June 1996 and August 2000, the city sold 365 one-, two-, and three-family houses. My research on their current status reveals that as of mid-February 2001, two thirds were occupied by renters. Another 19 percent of the houses were vacant, and 6 percent had been demolished. It is probably no coincidence that the number of vacant buildings in Brineburg has virtually quadrupled since the auctions began, from around 500 to approximately 2,000 empty buildings, most of which are located in the poorest neighborhoods.

Homeownership

Prior to being auctioned, 40 percent of the residential properties were occupied by their owners, and this closely coincides with Brineburg’s overall

homeownership rate. Currently only 9 percent of the houses that were sold are owner-occupied.

Marjorie, an elderly widow with mental problems, was one of the losers. She never received the city's warning letters about tax delinquency. Marjorie and her late husband had bought their home from the Veterans Administration (VA), but it did not transfer the title to them after the mortgage was paid off, and the city continued to send tax bills to the VA's district office. When her house was slated for auction, Marjorie's neighbors urged city councilors and bureaucrats to show leniency, but the reaction was indifference; a councilor argued that she should have known to pay her taxes anyway. The key to Marjorie's rescue then was exposing the city's shaky legal grounds for seizing – without due process – property still titled to the federal government. At that point, Brineburg's law department, always timorous about defending the city against claims, had Marjorie's home taken off the auction list. The respite was only temporary, however, and the house was sold in a subsequent auction.

Another homeowner, unable to persuade city officials to agree to a payment plan on \$4,000 in back taxes, robbed a bank. He used the proceeds of the crime to pay off the tax arrears but was soon arrested and sentenced to prison. His home was auctioned off.

Property owners who cannot reach a tax-trust agreement with the city may be tempted to borrow money from predatory lenders, who obtain lists of tax-delinquent owners from public records. Homeowners who are unwary or desperate enough to take such loans may use them to pay off their tax debts, only to have the property foreclosed on by the lender when they cannot make payments at high interest rates and unfavorable terms.

A few ordinary residents of Brineburg have benefited from the auction process, though in ways perhaps not intended by city officials. Vanessa and her small children faced losing their dilapidated cottage; over \$8,000 in unpaid taxes had accumulated, and she was going through a divorce. Although relatives of tax-delinquent owners are prohibited from bidding, Vanessa's father quietly bought the house at auction for less than \$3,500; he had one of his sons rehabilitate it and now rents the home to Vanessa. Another couple with small children bought a vacant two-family Victorian house for \$1,500. Its dilapidated condition and the family's low income (Corella received public assistance) made it impossible for them to obtain rehab financing even from a nonprofit agency. However, the family persevered, cleaning out the house and making

repairs as best they could. Six months later they moved in and now they obtain rent from the other apartment.

However, most auction sales have been to investors. At the first auctions, a few individuals snapped up the majority of the properties, one person buying 28 houses. There is even evidence that the auctions have been used to launder drug money; federal prosecutors may seize five houses bought by brothers who were convicted in a cross-country marijuana smuggling operation. Real estate agents, appraisers, and the spouse of a city council member are among other investors. Sometimes, when the buildings are located in desirable neighborhoods, investors have been able to resell the houses at a considerable profit.

Financial Impact

In Brineburg's seven tax auctions, the sale of one- to three-family houses brought a total of about \$2.3 million in revenues to the city. The prices received for the auctioned buildings are negligible, even in the context of Brineburg's dismal real estate market. Some buildings have been vacant for years and draw few or no bidders, and at least one has been offered at all seven auctions without ever eliciting a bid.

Residences that were owner-occupied before being auctioned sold for an average of \$7,086. In contrast, the average sale price of houses that were not lived in by their owners before the auction was \$5,868, or almost 17 percent less. This is not surprising, given that many of the non-owner-occupied homes had been neglected by absentee landlords or simply abandoned and left vacant.

My research calls into question the validity of a city official's assertion that the auctions are bringing the sold properties back onto the tax rolls. Fully 65 percent of the one- to three-family houses bought at auction were again tax-delinquent in February 2001, and some have been or are slated for auction a second time.

The city's policy of permitting only short-term tax trusts, with monthly payments often too high for homeowners to maintain, forebodes future delinquencies and evictions. The pattern of investor-abandonment of many auctioned buildings is also clear. Sale prices of nearly all Brineburg houses have continued to fall, with real estate values undercut by the bargain-basement deals found at the auctions. The bottom line seems to be that Brineburg's auction policy is only furthering the erosion of the city's already precarious tax base.

While city officials persistently focus on financial values of property, homeowners also have emotional investments in their houses, yards, and neighborhoods. Thus some intangible costs of the auction process should be factored into the balance sheet of buildings sold or delinquent taxes recouped under threat of auction. These costs include a marked bitterness toward the city by many of the people concerned: owners who have lost their homes; disillusioned buyers; representatives of social service agencies; and frustrated homeownership advocates.

The Geography of Power

The City of Brineburg classifies its neighborhoods as either stable ones or as revitalization areas – the latter a euphemism for distressed or blighted sections. Revitalization areas are literally inner-city neighborhoods that ring the downtown core, and most of the city's racial minorities and low-income families live in them. The stable/revitalization classification in use today was coined at least a decade ago and no longer reflects demographic realities, as some nominally stable areas have come to resemble the revitalization neighborhoods in population and housing conditions. However, even in terms of this outdated classification system, the city's tax auctions have disproportionately affected the revitalization areas. Fully 81 percent of the houses that have been sold at auction are in revitalization areas, and the average sale price of these houses was \$4,895; homes in stable neighborhoods sold for an average of \$13,082. Since the auction, houses in revitalization areas are more likely to be vacant (86 percent of vacant, auctioned houses are there) or to have been demolished (95 percent of all demolished auction houses were in revitalization neighborhoods). The proliferation of abandoned structures and vacant lots further contributes to these areas' reputations as dangerous and undesirable places to live, in effect de-vitalizing the revitalization areas.

Although such results are not intended by city policy makers, they underscore the geographical patterns of power and powerlessness in the city of Brineburg. The residents of poor neighborhoods are less likely to vote, to run for public office, or to serve on the boards of

influential organizations in the city. When Urban Renewal eviscerated Brineburg in the 1960s and 1970s, the poor families who were displaced scattered in several directions, diluting what political power they might have had. City officials continue to regard low-income neighborhoods with concentrations of minority residents as acceptable sites for facilities that they do not want in their own backyards, such as public housing, sewage-treatment plants, and halfway houses. However, the 2000 Census results show that the city has lost another 10 percent of its population over the past decade, and the upcoming mayoral elections are drawing considerable attention. It is no longer so easy to ignore the disparity in housing conditions in Brineburg's neighborhoods, nor the disparities in wealth and power. Ending the flawed strategy of auctioning tax-delinquent, owner-occupied properties will not be nearly sufficient to reverse the city's decline, but it could be a starting point for negotiations between residents of the city's most disadvantaged neighborhoods and those who govern them.

Notes

1. Research for this paper was conducted independently of any organization or university, and the interpretation of the findings is solely mine. I wish to gratefully acknowledge the occasional collaboration of staff from Brineburg United Neighbors, a community organization that advocates for some inner-city neighborhoods
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