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Stuart F. Delery
Assistant Attorney General, Civil Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Dear Assistant Attorney General Delery and Director Cordray,

Last week, the *Washington Post* released startling details of its 10-month investigation into the District of Columbia's (D.C.) tax lien sales program. There are numerous stories, not just in Washington, of seniors, veterans, and individuals with disabilities losing the homes they worked decades to secure, as third-party investors unceremoniously capitalize on their frailty and illness. In one reported case, "a 95-year-old church choir leader lost her family home to a Maryland investor over a tax debt of $44.79 while she was struggling with Alzheimer's in a nursing home." We are writing to urge you to immediately examine the tax lien sales programs in states and municipalities across the country and to promptly develop best practices that will protect consumers nationwide from the unscrupulous practices of third-party investors seeking to prey on our most vulnerable citizens.

The *Washington Post's* investigation reveals a tax lien sale program which, while purportedly overseen by the D.C. government, seems to be run by out-of-town, third-party investors. Of great concern is the correlation highlighted by the *Post* between the prevalence of these out-of-town third-party investors and the increasing rate of foreclosures on D.C. properties with tax liens.

The investigation reveals a system that appears to offer few protections to property owners and ample leverage to third-party investors looking to maximize profits by charging property owners exorbitant fees and bringing properties to foreclosure. Once these third-party investors acquire liens at auction, they frequently increase the amount owed by the property dramatically, sometimes by multiples of 30 to 40, through the imposition of apparently unlimited processing, legal and other fees. For many veterans, seniors, and disabled individuals on a fixed income, paying such additional amounts is not feasible. According to the reporting, many individuals who are unable to pay have lost their homes and been put out on the street for a tax debt which initially amounted to less than a week's worth of groceries or a month of cable television.

For the third-party investor, the ability of the property owner to pay the fees makes little difference as the system seems to be set up to ensure the investors always come out on top. If the property owner pays off the lien, the investors are entitled to any accrued interest and fees—fees which appear to be set and assessed by the investor without meaningful limitation. If the property owner is unable to pay off the lien in a timely manner, the third-party investor can go to court, initiate the foreclosure process, and profit from the ultimate sale of the property.

While we understand that some state and local governments are struggling in the current economic climate, it is never acceptable to make up such a shortfall on the backs of some of our most vulnerable citizens. Property tax liens are intended to be a mechanism for state and local governments to capture tax dollars owed by a given property owner, and the desired outcome should be payment of the tax debt by the property owner, not foreclosure and profit by a third party.

State and local governments can – and some do – allow for vulnerable populations and those enduring a hardship to defer property tax payments, limit the amount of permissible fees during the tax lien process, and include appropriate exemptions for veterans and others. Unfortunately, this is not the case in every state and municipality, and it appears that some third-party investors are cynically leveraging these regulatory gaps to maximize profits by imposing often unreasonable and escalating fees and ultimately forcing property owners into foreclosure and out of their homes.

Additionally, in a related situation involving homeowners, the *New York Times* recently reported on a practice involving banks and their third-party contracts with property management firms. In an article entitled "Invasive Tactic in Foreclosures Draws Scrutiny," the *Times* highlights the aggressive and questionable tactics being employed by some banks and their subcontractors when homeowners are – and even sometimes, in fact, are not – behind on their mortgage payments. A lawsuit filed by the Illinois Attorney General cites practices such as breaking into consumers' homes, bullying homeowners into leaving their homes, and damaging consumers' homes and other possessions. This strikes us as another area where significant additional federal oversight may be necessary to protect consumers.

Given the abhorrent consumer abuses evident in the reporting on D.C.'s third-party tax lien program as well as the seemingly problematic methods being used by third-party property management firms across the country, we ask the CFPB and the Department of Justice to do the following:

Tax Lien Programs

1. Examine tax lien programs in states and municipalities across the country, including an analysis of:
    a. The foreclosure rates and fees charged in states and municipalities that permit third-party investment in tax lien sales as compared with those that do not allow for third-party investment; and
    b. The foreclosure rates and fees charged to veterans, seniors, individuals with disabilities, low-income individuals, and individuals with chronic illnesses relative to the rest of the population in states that permit third-party investment in tax lien sales

2. Based on those findings, make best practice recommendations to state and local governments on how to structure their tax lien programs to ensure strong consumer protections
3. Clarify the state of existing federal laws and regulations governing third-party tax collection practices and resulting property seizures

Third-Party Contractors

4. Provide an update on current oversight of third-party vendors hired by mortgage holders or servicers during the foreclosure process
5. Make best practice recommendations to states about additional ways to inform consumers at risk of foreclosure or in the foreclosure process of their legal rights
6. Clarify the state of existing federal laws and regulations governing such third-party vendors and their interactions with homeowners, as well as the rights that homeowners enjoy in such circumstances

Thank you for your prompt attention to these critical consumer protection issues. We look forward to receiving your initial responses to this request **no later than October 31, 2013**.

Sincerely,

Ron Wyden
U.S. Senator

Jeff Merkley
U.S. Senator

Elizabeth Warren
U.S. Senator

Edward J. Markey
U.S. Senator

Mark Warner
U.S. Senator

Bernard Sanders
U.S. Senator

Robert Menendez
U.S. Senator

Tim Kaine
U.S. Senator

Christopher Murphy
U.S. Senator

Bill Nelson
U.S. Senator

Mark Begich
U.S. Senator

Richard Blumenthal
U.S. Senator