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### Lien sale means lean time

#### Man's tax debt grows from \$1,200 to \$32,000

*TY TAGAMI; Staff*

Meet Charles Spiller, tax scofflaw.

The 60-year-old former truck driver and home fix-it man bought a burned-out ranch house in southwest Atlanta for \$7,500 in 1989, and he hammered and he sawed until it was appraised at more than 10 times as much.

Then he fell ill and couldn't pay his taxes. In December 1999, he refinanced his mortgage to pay \$1,200 in back taxes accrued since 1997. But the Fulton County tax commissioner's office did not accept the check. The tax commissioner already had sold the debt to a private collection company, and the check was never forwarded.

That little wrinkle could cost Spiller nearly \$31,000 and could very well cost him his home. His \$1,200 tax debt ballooned to \$32,000 because of the amount state law allows private collection companies to charge.

Howard **Rothbloom**, a lawyer who said he is helping Spiller in bankruptcy court without charging him, said Spiller is a victim of an unforgiving system that penalizes taxpayers for government mistakes even when they try to pay. "It's not like he didn't pay because he didn't want to pay," **Rothbloom** said.

The controversial practice of selling tax debt has earned many critics, who say it allows small amounts to rocket far beyond what people can afford and exacts an undue toll on those who miss a payment deadline, lose a bill in the mail or get lost in a complex bureaucracy. The margin of error is slim, but the consequences can be huge, and the county doesn't lift a finger to help, they complain – even when it caused the problem.

Fulton County Tax Commissioner Arthur Ferdinand said tax lien sales are one reason the collection rate is at 99 percent, up from 90 percent when he was hired in 1997. He said if he didn't sell liens, he'd have to foreclose on properties himself, and under current state law a government foreclosure would come sooner. He said he is doing what he can to keep seniors and disabled people from losing their homes to collectors. But if private investors want to buy their tax liens, he must sell them, he said. "People have a certain responsibility to take care of themselves."

Lawyer Bill Brennan, who calls Ferdinand a "heartless guy," said the county could do more to help them, especially when people's homes are on the line. He said it's bad policy to sell debt to private collectors, because they want their money and won't cut people any slack. The government can give more "leeway," he said.

"Efficiency's great, but what about an elderly woman who comes out of the hospital and can't pay her taxes?" said Brennan, the director of the Home Defense Program for Atlanta Legal Aid. "I have these cases coming at me all of the time."

Most tax commissioners in Georgia won't sell tax liens, said Andy Pipkin, a former president of the Georgia Association of Tax Officials. Pipkin, who is the Henry County tax commissioner, said he doesn't sell tax liens to collection companies "because I don't know how they're going to treat the taxpayers."

While other counties have sold them, Ferdinand has led the state, said Pipkin, who testified against tax lien sales in legislative hearings last spring. Fulton County had a large delinquent tax roll when Ferdinand was hired in 1997, and it's easier to collect back taxes by selling them to private collectors, Pipkin said. "I might do the same thing if I were in his place."

In November, Ferdinand sent letters to owners of 39,400 properties, informing them that their 2002 taxes were past due and that liens on their properties could be sold. (Atlanta taxes, which Fulton collects, are usually due Aug. 15 but were due Sept. 1 this year because the bills went out late; Fulton County taxes were due Oct. 15.)

Most got their notices the weekend before Thanksgiving, and had three work days to make their payments. Many homeowners complained that when they tried to call the tax commissioner's office they got busy signals or voice mail.

One of them, John Proctor, who lives outside Alpharetta, said he just wanted to know what he owed and why, since he'd gotten his tax bill and he knew his mortgage company had paid it.

The chief technology officer for a Gwinnett County medical services company said he missed three days from work to fix his tax problem. He said he only reached someone in the tax commissioner's office after County Commissioner Bob Fulton's office intervened.

It turns out that the county tax assessor's office had switched Proctor's home from the Alpharetta taxing district to unincorporated Fulton County after the tax bill was mailed. Proctor said he got no notice of the switch, and his mortgage company paid the original, lower, amount to Fulton County.

Ferdinand said the county sent Proctor a second tax bill with the revised amount due, but Proctor said he only got the first bill. Ferdinand said property owners are responsible for paying their taxes whether they get a bill or not. He said lack of notice is always the first complaint.

Sometimes the complaint is legitimate.

John Cunningham, the chief appraiser, said there are a "certain number" of addresses in the database that are incorrect. When his office sent 230,000 assessment notices in April, 9,600 were returned unopened, he said. Ferdinand uses the same database to address his bills and notices, Cunningham said.

"He's got to send them out anyway, whether they're good or not. I'm sure he gets a lot of the same ones back," Cunningham said.

A missed tax bill can cost people their homes, as is happening with Spiller. Now, thousands of Fulton County property owners could face similar debt. On Dec. 6, Vesta Holdings, the company that bought Spiller's tax debt in 1999, paid Fulton County \$35.4 million for 20,377 liens for delinquent 2002 taxes.

Ferdinand said his office gets about 60,000 phone calls a month -- there are 273,352 real estate parcels in Fulton County -- and does the best it can to help people. He said his clerks can't be expected to understand and explain every detail about taxes to homeowners with questions, however.

Vesta has agreed not to purchase the liens on properties owned by seniors and the disabled, said Ferdinand, though he acknowledged other companies could buy them. He said he will enroll seniors and the disabled in payment plans if they get behind on their taxes. But he said he can't help people if he doesn't know they need it. They must acquire a special homestead exemption through the county tax assessor's office. Spiller was listed as disabled on the tax commissioner's computer system. He also was enrolled in a payment plan.

Ferdinand said he skipped too many payments.

Robert Proctor, an attorney for Vesta, said that if Ferdinand cut everyone a break, the taxes wouldn't get collected. "The fact of the matter is, in Fulton County, for years and years and years, if you didn't pay your taxes, nothing happened," said Proctor, who is not related to John Proctor.

Robert Proctor noted that it is the mortgage company, which folded the cost of the foreclosure process into Spiller's mortgage, and not Vesta, that is now foreclosing on Spiller.

"I'm sure that they gave the guy plenty of time to pay, and he didn't pay and so he's got to go," Proctor said.

Photo: Charles Spiller may lose the home he rebuilt because his late attempt to pay his taxes, after a bout of ill health, was unsuccessful. The Fulton County tax commissioner's office had already sold the debt to a collection company. / KIMBERLY SMITH / Staff

Photo: Coupons used by homeowners who pay off their debt in installments lie on the desk of Fulton County Tax Commissioner Arthur Ferdinand. / KIMBERLY SMITH / Staff

Graphic: How the lien sale process works

Unpaid taxes turn into delinquent tax liens, which can be sold to private investors. The investors, in turn, can demand that the sheriff sell the property. The penalty to the homeowner increases with each step. This is the process:

- > Tax bills are generated on July 1 and mailed soon thereafter.
- > The tax bill for Atlanta typically comes due Aug. 15 (it was Sept. 1 this year), and for the county, Oct. 15.
- > Soon after the due date, the tax commissioner mails notices saying delinquent tax liens will be recorded and possibly

sold if taxes are not paid within 30 days.

> On the 31st day, typically in late November or early December, delinquent tax liens are sent to the Superior Court clerk to be recorded. On that same day, they are available for purchase. The property owner will owe an additional 10 percent interest 90 days from the tax due date.

> A tax lien buyer pays face value for the debt, essentially paying it off. The buyer then plays tax collector, charging 1 percent interest a month until the debt is paid. The buyer also can collect the 10 percent interest due 90 days from the tax due date. And the company can demand that the sheriff sell the property for the taxes and interest.

> If the investor demands a sheriff's foreclosure sale, the sheriff must research the property's chain of title, then provide 20-day notice to the owner that the property will be advertised for sale. The sheriff must advertise the sale for four weeks then give the owner a 10-day notice of the pending sale. Sales occur the first Tuesday of each month on the steps of Superior Court.

> The highest bidder does not possess the property but rather an interest in it. The owner can still live there, but is at risk of losing possession. To end the risk, the owner must "redeem" the title by repaying the bid price plus a 20 percent fee and the sheriff's costs. A year later the fee grows another 10 percent, and so on each year thereafter. The fees were about double until last spring, when the Georgia Legislature reduced them.

> A year after the auction, the high bidder can move to take possession of the property. The process, called barring the right of redemption, requires notification of the homeowner and advertisement. It takes about 45 days. Thereafter, the property officially has changed hands.

> The new possessor can petition the courts to "disposses" the former owner. In about two weeks, the county marshal will forcibly remove the occupants and all possessions then change the locks.

-- Ty Tagami

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