

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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CITY OF DETROIT,

Plaintiff-Appellee,

V

2942 CASS and CASS PARK, INC.,

Defendants-Appellants.

UNPUBLISHED

October 19, 2001

No. 220591

Wayne Circuit Court

LC No. 98-825055-CH

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CITY OF DETROIT,

Plaintiff-Appellee,

V

138 TEMPLE, CASS PARK, INC., JACK  
HAGOPIAN and PEGGY P. HAGOPIAN,

Defendants-Appellants.

No. 220592

Wayne Circuit Court

LC No. 98-825058-CH

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CITY OF DETROIT,

Plaintiff-Appellee,

V

132 TEMPLE, CASS PARK, INC., JACK  
HAGOPIAN and PEGGY P. HAGOPIAN,

Defendants-Appellants.

No. 220593

Wayne Circuit Court

LC No. 98-825060-CH

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Before: Bandstra, C.J., and White and Collins, JJ.

WHITE, J. (*concurring in part and dissenting in part*).

I concur in the majority's determination that plaintiff City of Detroit was entitled to foreclose on the liens for taxes owed for 1988 through 1995. I respectfully dissent, however, from the majority's conclusion that the tax deed extinguished plaintiff's right to collect the pre-sale taxes.

In *Hoffman v Otto*, 277 Mich 437; 269 NW 225 (1936), and *Detroit v Sitter*, 288 Mich 505; 285 NW 40 (1939), the Supreme Court rejected arguments that a tax sale deed extinguished the City of Detroit's tax liens for taxes predating the state tax deed. In *Hoffman*, at the time of the tax deed, the City of Detroit had unpaid levies for taxes and special assessments for years preceding and subsequent to the deed. The city had apparently bid in the property for city taxes under the city charter. The plaintiff, who had received the property from the tax purchaser by quitclaim deed, contended that the tax deed and the city's failure to redeem its interest in the property after notice, destroyed the levies and the city's interest in the property for the years preceding the deed. The *Hoffman* Court rejected that contention, concluding that the city was not obliged to redeem its interest to preserve its rights as against the state tax deed.

In *Sitter*, *supra*, the defendant purchased property at a state and county tax sale. At the time, there were unpaid city property taxes and assessments. The city had bid in the taxes, but had not foreclosed. The defendant sent notice, pursuant to the statute, that the city could redeem the property from the state and county tax sale and that failure to redeem would discharge the city's unpaid tax and assessment lien. Relying on *Hoffman*, and rejecting the argument that a recent amendment to the statute made clear that the city was among those entities that must preserve its interest by redemption, the Court concluded that the city's tax lien interest survived the tax deed.

The *Hoffman* Court had said:

The state, undoubtedly, could, by appropriate legislation, do the very thing claimed by plaintiff; but such legislation would have to be plainly expressed and cannot be accomplished by construction or implication.

Our attention is not called to any such plainly expressed legislation. [277 Mich at 440].

This language was quoted by the *Sitter* Court. *Sitter*, *supra* at 508.

I acknowledge that the language relied on by defendants and the majority in the instant cases was not mentioned in either *Hoffman* or *Sitter*. Nevertheless, comparable statutory provisions were in effect at all relevant times. 1915 CL § 4069; 1929 CL § 3464. Under the circumstances that *Hoffman* and *Sitter* have not been repudiated, no case cited by defendants involves the issue whether City of Detroit taxes that are not sold as part of the county tax sale are extinguished by the tax deed, and the Legislature has not signaled its disapproval of *Sitter* and *Hoffman*, I would affirm.

/s/ Helene N. White