

Assembly Hearing Slip

(Please print plainly)

Date: 7-7-99
Bill No. AB 321
Or
Subject: Cateacher
(Name)
235 Hawthorne
(Street Address or Route Number)
Brookfield
(City & Zip Code)
Washington County
(Representing)

Speaking in favor:
Speaking against:
Registering in favor:
Registering against:
Speaking for information only:
Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms:
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 7-7-99
Bill No. AB 321
Or
Subject: Tax Seed Proceeds
(Name)
Peggy S. Ross
(Street Address or Route Number)
51 S Main
(City & Zip Code)
Janesville WI 53545
(Representing)
Wis. County Trees

Speaking in favor:
Speaking against:
Registering in favor:
Registering against:
Speaking for information only:
Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms:
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: July 7, 1999
Bill No. 321
Or
Subject: Bill G. Smith
(Name)
10 East Doty Street
(Street Address or Route Number)
Madison 53703
(City & Zip Code)
National Federation of Independent
(Representing) Business (NF-IB)

Speaking in favor:
Speaking against:
Registering in favor:
Registering against:
Speaking for information only:
Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms:
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: July 7, 1999
BILL No. AB 321
Or
Subject: _____

Allison Kujawa
(Name)
100 River Place, Suite 101
(Street Address or Route Number)
Monroe, WI 53716
(City & Zip Code)
Wisconsin Counties Association
(Representing)

Speaking in favor:
Speaking against:
Registering in favor:
Registering against:
Speaking for information only:
Neither for nor against:

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State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 7/7/99
BILL No. AB 321
Or
Subject: _____

REP. KORBANE SEATT
(Name)

(Street Address or Route Number)

(City & Zip Code)

(Representing)

Speaking in favor:
Speaking against:
Registering in favor:
Registering against:
Speaking for information only:
Neither for nor against:

Please return this slip to a messenger promptly.
Assembly Sergeant at Arms:
Room 411 West
State Capitol
Madison, WI 53702


1999 - 2000 LEGISLATURE

1999 ASSEMBLY BILL 321 


May 6, 1999 - Introduced by Representatives Seratti, Albers, Grothman, Pettis, Kreibich, F. Lasee, Ainsworth, Townsend, Musser, Hutchison, Staskunas and Gunderson. Referred to Committee on Ways and Means.

Pg1Ln1 **An Act** to repeal 75.36 (4); to amend 75.36 (2m) (intro.) and 75.36 (3) (c); and
Pg1Ln2 to create 75.36 (3) (d) of the statutes; relating to: proceeds from the sales of
Pg1Ln3 tax delinquent property.

Analysis by the Legislative Reference Bureau

AB321 


Under current law, if a person does not pay the property tax that is due on a parcel of real property before September 1, the county treasurer issues a tax certificate on that parcel. The issuance of a tax certificate begins the two-year redemption period during which a person may retain the person's property by paying the delinquent taxes on that property. If the person does not pay the delinquent taxes during the redemption period, the county may acquire the property by taking a tax deed on the property. The county may then sell the property to pay the delinquent taxes. After the delinquent taxes, interest, penalties and special charges related to the property are paid, the county pays the remaining proceeds from the sale of the property to the former owner, if the former owner had used the property as the former owner's homestead.

AB321 

Under this bill, the county pays the remaining proceeds from the sale of delinquent property to the former property owner, regardless of whether or not the former owner used the property as the former owner's homestead. The county treasurer must also notify the department of revenue of any proceeds paid to the former property owner.


For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

AB321, s. 1 

Pg2Ln1

Section 1. 75.36 (2m) (intro.) of the statutes is amended to read:

AB321, s. 1 - continued 

Pg2Ln2

Pg2Ln3

Pg2Ln4

Pg2Ln5

Pg2Ln6

Pg2Ln7

Pg2Ln8


Pg2Ln9

Pg2Ln10

Pg2Ln11


Pg2Ln12

75.36 (2m) **Notice; proceeds.** (intro.) ~~Upon acquisition of a tax deed under this chapter if sub. (4) applies, the~~ The county treasurer shall notify the former owner of property acquired by a tax deed, by registered mail or certified mail sent to the former owner's mailing address on the tax bill, that the former owner may be entitled to a share of the proceeds of a future sale under this section. If the former owner does not request, in writing, payment within 60 days after receipt of that notice, the former owner forfeits all claim to those proceeds. If the former owner timely requests payment, the county shall send to the former owner the proceeds identified in sub. (3) (c) minus any delinquent taxes, interest and penalties owed by the former owner to the county in regard to other property and minus the greater of the following amounts:

AB321, s. 2 

Pg2Ln13


Section 2. 75.36 (3) (c) of the statutes is amended to read:

AB321, s. 2 - continued 

Pg2Ln14


Pg2Ln15

75.36 (3) (c) Distribute any remaining net proceeds ~~that are subject to sub. (4)~~ to the former owner of the property.

AB321, s. 3 

Pg2Ln16


Section 3. 75.36 (3) (d) of the statutes is created to read:

AB321, s. 3 - continued 

Pg2Ln17


Pg2Ln18

75.36 (3) (d) Notify the department of revenue, on a form prescribed by the department of revenue, of the net proceeds paid under par. (c).

AB321, s. 4 

Pg2Ln19

Section 4. 75.36 (4) of the statutes is repealed.

AB321, s. 5 

Pg2Ln20

Section 5. Initial applicability.

AB321, s. 5 - continued



Pg3Ln1

Pg3Ln2

Pg3Ln3

(1) This act first applies to the sales of tax delinquent property on the effective date of this subsection.

(End)



Lorraine M. Seratti

State Representative • 36th Assembly District

TESTIMONY ON ASSEMBLY BILL 321

July 7, 1999

Thank you Chair Lehman and members of the committee. Earlier this year, it was brought to my attention there is an inconsistency in the way funds from sales of tax delinquent properties are handled. When homestead properties are seized and sold, counties are obligated to return to the former owner, any amount of money beyond the amount of the tax owed, including penalties and interest, and the costs associated with the sale of the property. However, when any property other than a homestead is seized and sold, the county may keep any money in excess of the amount owed as a profit. This is unfair.

Under current law, if a person does not pay the property tax that is due on a parcel of real property before September 1st, the county treasurer issues a tax certificate on that parcel. The person then has two years in which to pay the taxes. If they fail to pay, the county may acquire the property and sell it in order to pay the tax bill. Once the property is sold and a sum sufficient to cover the delinquent taxes, interest, penalties, and special charges related to the property is collected, the remainder of the sale price is retained by the county as a profit, unless the property was owned as a homestead. If the property is owned as a homestead the excess proceeds are returned to the original property owner.

The constituent who contacted me regarding this issue had a business property taken because he was unable to pay \$700 in property taxes. The property was then sold for \$20,000. None of the excess proceeds were returned to him, nor were any applied to other outstanding tax debts owed

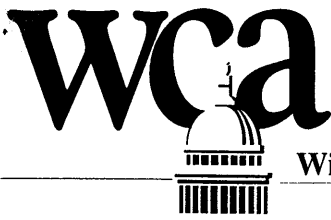
by the business. *(The Department of Revenue had placed a lien on the property for \$17,000 in back sales taxes, but the county was not obligated to turn over any of the money to DOR and did not choose to do so.)*

This policy is inequitable. It does not create a uniform penalty, and in fact provides no consideration for the size of the taking in comparison with the amount owed. The aforementioned incident resulted in a taking of over 2,800 percent of the debt owed. There are no criteria for this type of judgement, no appeals process, and therefore, no accountability.

There is no need for a county to keep proceeds in excess of the amount owed in taxes and the costs associated with the transaction. Currently, when taking homestead properties, counties recover all taxes owed, interest, penalties, and administrative costs.

Assembly Bill 321 simply requires counties to return excess proceeds from sales of delinquent properties to the former owners, regardless of whether it was owned as a homestead. Common sense and fairness dictate that this should be the case.

Thank you for listening. I would be happy to answer any questions.



Wisconsin Counties Association

MEMORANDUM

TO: Honorable Members of the Assembly Committee on Ways and Means
FROM: Allison Kujawa, Legislative Associate *AK*
DATE: July 7, 1999
RE: Opposition to Assembly Bill 321

The Wisconsin Counties Association (WCA) is opposed to Assembly Bill 321 (AB 321). Under current law, if a person does not pay the property tax that is due on a parcel of real property before September 1, the county issues a tax certificate on that parcel. If the person does not pay the delinquent taxes during the two-year redemption period, the county may acquire the property to pay the delinquent taxes. The county may sell the property to pay the delinquent taxes. After the delinquent taxes, interest, penalties and special charges related to the property are paid, the county must pay the remaining proceeds from the sale of the property to the former owner, if the former owner had used the property as the former owner's homestead.

Under AB 321, the county must pay the remaining proceeds from the sale of delinquent property to the former property owner, *regardless of whether or not the former owner used the property as a homestead.*

AB 321 would mandate the county to act as a "real estate agent" for any person or business that decides they want to sell their property. The property owner could simply choose not to pay taxes for two years, and the county would be required to sell the property. After deducting delinquent taxes, interest and penalties the county would be required to pay the remaining balance of the proceeds from the sale of the property back to the original owner.

Due to the volume of tax delinquent property taken and sold in Wisconsin counties, AB 321 would create a tremendous amount of work for County Treasurers. In many cases the amount of property sold does not cover the delinquent taxes, interest and penalties, much less the costs associated with the sale of the property.

In addition, many properties were taken by tax deed 40-50 years ago and it would be almost impossible to locate the former owners.

100 River Place, Suite 101 ♦ Monona, Wisconsin 53716-4016
608/224-5330 ♦ 800/922-1993 ♦ Fax: 608/224-5325

Mark M. Rogacki, Executive Director
Darla M. Hium, Deputy Director

Mark D. O'Connell, Legislative Director
Lynda L. Bradstreet, Administrative Director

WCA does not believe that this legislation furthers the interests of county government or the taxpayers of the state. We respectfully request your opposition to Assembly Bill 321.

Thank you for considering our comments.

Peggy S. Ross
County Treasurer



Office of County Treasurer
51 South Main Street
Janesville, Wisconsin 53545
608/757-5675

ROCK COUNTY, WISCONSIN

July 7, 1999

Ways and Means Committee, Mickey Lehman Chair
Subject: Assembly Bill 321

Good morning Chairman and committee members.

My name is Peggy S. Ross. I am the President of the Wisconsin County Treasurers Association, Rock County Treasurer and am speaking also on behalf of the Rock County Board of Supervisors.

In May of this year the Rock County Board of Supervisors approved a Resolution in opposition to Assembly Bill 321-Tax Deed Proceeds. At the June conference of the County Treasurers, discussion was held regarding this bill and those present mutually agreed this is a bad bill.

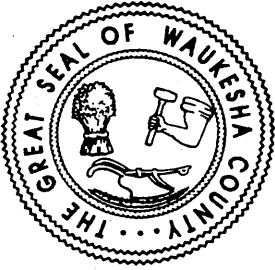
The foreclosure action as provided by Wis. Statutes 75.521 voids all mortgages, liens, judgements, land contracts and State Tax Liens. Federal Tax Liens have their own expiration date and as well may be cleared from the property.

AB321 expands the authorization and ability to strike liens and re-acquire foreclosed properties and share in the potential sales proceeds beyond those classified as being homesteads under statutory definition. AB321 would allow someone to require that the County follow the statutes by foreclosing on their property whether it be classified as homestead, business, commercial, or industrial, void all mortgages, liens, judgements, land contracts, and in some cases, Federal Tax Liens and make it available for re-sale. This legislation would also void any contamination liens filed by the DNR against a piece of property. The owner could then purchase the property back free and clear and also share in the proceeds of the sale of the property.

Foreclosure actions in Rock County occur primarily on less desirable property or real estate that has been abandoned and has some form of environmental contamination.

The object of the foreclosure action should first be to find a buyer and get the property back on the tax roll with someone paying the taxes. This bill would make real estate brokers out of the County Treasurers. The 99% of taxpayers who pay their taxes and support the budgets of the State, County, Schools, Vocational Schools and municipalities should not be expected to allow those who do not pay taxes to share in any profits. If they have not accepted the responsibility that goes with owning property, they should not be rewarded with any share of proceeds after they have lost their property

Thank you for allowing me to address this committee.



TREASURER'S OFFICE

WAUKESHA COUNTY

PATRICIA G. KARCHER
County Treasurer

1320 Pewaukee Road (HWY J), Room 148
Waukesha, WI 53188-3873

LINDA M. PATZER
Deputy

Phone: (414) 548-7029
Fax: (414) 896-8037

Wednesday, July 7, 1999 – 417N

THE HONORABLE MICHAEL LEHMAN AND MEMBERS OF THE COMMITTEE ON WAYS AND MEANS.

As legislative chairman of the Wisconsin County Treasurers Association I come to you today to speak in opposition of 1999 Assembly Bill 321 – Proceeds of In Rem properties. It is opposed for the following reasons:

1. The In Rem procedure is a lengthy process to begin with. As an example, we are currently foreclosing on property owners who have not paid their 1995 taxes. That's four years of taxes we are out the money.
2. By the time we take final Judgment on the property, the owner has been notified numerous times, by letter, that the county will eventually become the owner if the taxes are not paid.
3. The treasurer will often take it upon them self to contact the owner and inform them of the end result if the taxes are not paid.
4. The owner has a responsibility to either pay or obtain a loan to avoid having the county take the property.
5. The county treasurers oppose this bill because there is an extended time frame before they take it and there are many opportunities the owner has to avoid the ultimate results ,
6. In Waukesha County I had a homeowner who actually sent me a letter and the keys to his house, expecting that I would forelose on the property, have it appraised, sell it and give him the profit. I was able to contact the individual and inform him that he would not share in the profits if the county took it and so I matched him up with a real estate company and everything turned out fine.
7. What should the county do when we sell foreclosed property and take a loss on it? Then the property owner doesn't care!
8. This bill was discussed at the last meeting of the county treasurers and it was unanimous that this is a bad bill and not one treasurer could in all honesty support it.

Thank you.

Patricia G. Karcher
Waukesha County Treasurer

Ways & Means Committee
Preliminary Report on Referred Legislation
July 19, 1999

Bill: **AB 321**

Author: **Seratti**

Date Referred: **05-06-1999**

Public Hearing: **07-07-1999**

Executive Session:

Relating Clause: proceeds from the sales of tax delinquent property.

Comments from Department of Revenue-

Comments from the Author-

Author's reasoning for introducing legislation:

A constituent: \$700 tax owed, prop seized and sold for ~\$20,000. Excess proceeds not returned.

Author's intent:

That when a tax delinquent property is sold, the proceeds of the sale after the delinquent taxes are paid, are returned back to the former owner of the property. This is current law if the property in question was the owner's homestead. This bill would apply this process to all property (incl. Sheryl's dad's farm).

Does the Author want the legislation moved forward?

Yes No

If no, do we have this in writing?

Yes No

Is the legislation in its final form?

Yes No

If major changes are required, the author shall prepare and introduce the necessary amendments.

Comments from potentially affected parties-

What about any other liens on the property? State liens?

Author open to "friendly" amendments.

Limitation on length of time county must return proceeds? –Yes, 11 years. –Perhaps an amendment to the effect of that any excess proceeds returned would be based on appraisal done at time of seizure or sale price if sold within “x” number of years.

Why can't people just sell the property on their own? That way and proceeds in excess of amount due can easily be retained. ...duh

Nowlan, Andrew

From: Fiocchi, Timothy
Sent: Wednesday, October 06, 1999 1:47 PM
To: Nowlan, Andrew

Joe,

I need to get some amendments made to AB 321 and am wondering what the time schedule would be on that. The Ways and Means Committee wants to exec on the bill Wednesday the 13th.

The amendments would basically consist of the following:

1. The bill would be changed to only affect business properties, rather than all property other than homestead.
2. Add language requiring that a person, in order to receive the repayment of the excess funds, would have to waive confidentiality of their records, and require the county to inform the Department of Revenue that the funds are being returned to the person.
3. We need to put language in limiting the responsibility of the county to just making a reasonable effort to get the money to a person. Use present language as a model - something along the lines of 3 public notices in the paper and 3 registered letters.

I am going to be out of town as of Saturday morning so we're real short on time. I had initially been informed that this bill would not be execed on Wednesday - miscommunication somewhere. If need be we could probably delay it. Give me a call ASAP.

Thanks,

Tim Fiocchi
Committee Clerk/ Research Assistant
Representative Loraine Seratti's Office
Phone: (608)-266-3780

Tim Fiocchi
Committee Clerk/ Research Assistant
Representative Loraine Seratti's Office
Phone: (608)-266-3780

BTM 00025/200 FORMS BTM 00024/400 FORMS

PHONE MESSAGE	TO	DATE 2/18	TIME 8:25
	FROM Dep Raimery County	[REDACTED]	
	COMPANY COX 742-9614		
MESSAGE	[REDACTED]		
	Re AB 321		
	SIGNED		
<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>			<input type="checkbox"/> URGENT

Does not do #2.
 Why necessary?

What does it do?
 mean?

LRB
 99a 0729/1

More of a
 hassle.

LRB
 99a 0734/1

Can treasurer's really
 administer this?

Ordinance under (3) allowed mortgagor to reacquire foreclosed property free of mortgage lien. *Bank of Commerce v. Waukesha County*, 89 W (2d) 715, 279 NW (2d) 237 (1979).

75.36 County acquisition and sale of property.

(1) DEFINITION. In this section, "special assessments" means unpaid instalments of special assessments which were levied on real property prior to the date that the county acquired the real property by taking of a tax deed under this chapter. "Special assessments" includes amounts delinquent when the property became subject to a tax certificate, instalments which became delinquent during the time the property is subject to a tax certificate and all instalments payable after the date the county takes a tax deed under this chapter. "Special assessments" does not include unpaid amounts of special assessments deferred under s. 66.605, unless the taxing jurisdiction has acted under s. 66.605 (2).

(2) ACQUISITION OF PROPERTY BY COUNTY, EFFECT ON LIABILITIES. (a) If property is acquired by a county taking a tax deed under this chapter, the county is not required to pay any special charges or special assessments until the property is sold by the county. In the case of lands designated as forest croplands or managed forest lands, the county is not required to pay any taxes under s. 77.04, 77.07 or 77.87 until the forest crop is cut. The liens of the tax certificate and of all general property taxes, special assessments, special charges and special taxes levied against the property shall merge in the county's title.

(b) If the county did not settle for unpaid special assessments or special charges under s. 74.29, the county treasurer shall notify all taxing jurisdictions that the county has acquired the property under this chapter. Each taxing jurisdiction shall certify to the county treasurer the unpaid special assessments and special charges to which the property is subject.

(c) If the county's title to the lands taken by tax deed is adjudged to be void, the county shall reinstate any canceled taxes and any liens previously merged under par. (a).

(2m) NOTICE, PROCEEDS. Upon acquisition of a tax deed under this chapter if sub. (4) applies, the county treasurer shall notify the former owner, by registered mail or certified mail sent to the former owner's mailing address on the tax bill, that the former owner may be entitled to a share of the proceeds of a future sale. If the former owner does not request, in writing, payment within 60 days after receipt of that notice, the former owner forfeits all claim to those proceeds. If the former owner timely requests payment, the county shall send to the former owner the proceeds identified in sub. (3) (c) minus any delinquent taxes, interest and penalties owed by the former owner to the county in regard to other property and minus the greater of the following amounts:

(a) Five hundred dollars plus 50% of the amount obtained by subtracting \$500 from the proceeds identified in sub. (3) (c).

(b) The actual costs of the sale as specified under sub. (3) (a) plus 2% of the sale price plus all amounts disbursed under sub. (3) (b) and plus the amount of property taxes that would have been owed on the property for the year during which the sale occurs if the county had not acquired the property.

(3) DISTRIBUTION OF PROCEEDS OF SALE. If a county sells property that was acquired by taking of a tax deed under this chapter, the county treasurer shall do all of the following:

(a) Determine the net proceeds from the sale of the property by subtracting from the sale price all of the following:

1. The following costs, including personnel costs associated with them: foreclosure costs, record-keeping costs, legal costs, advertising costs and title insurance costs. A county may establish a reasonable estimate of the average costs under this subdivision incurred with respect to property sold after the taking of a tax deed which it may use instead of determining the actual costs for any parcel sold by the county.

1m. The following actual costs, including personnel costs associated with them: maintenance costs that are required for compliance with building codes or health orders, board-up costs,

clean-up costs, demolition costs and all other costs that are reasonable and necessary to sell the property except costs under subd. 2.

2. The amount of real estate agent or broker fees paid for selling the property.

3. All amounts of unpaid general property taxes, special assessments, special charges and special taxes levied against the property sold, including interest and penalties imposed under s. 74.47 previously paid to taxing jurisdictions by the county.

(b) From the net proceeds of the sale of the property, as determined under par. (a), first pay any withdrawal tax due under s. 77.84 (3) (b) and then pay to taxing jurisdictions all special assessments and special charges to which the property is subject, including interest and any penalties imposed under s. 74.47. If the net proceeds are not sufficient to pay all outstanding amounts due, the net proceeds shall be prorated to each taxing jurisdiction based upon the ratio that the amount of all special assessments and special charges due that taxing jurisdiction bears to the amount of all special assessments and special charges levied against the property sold, including interest and any penalties imposed under s. 74.47. Amounts payable under this paragraph shall be paid to the taxing jurisdiction within 15 days after the last day of the month in which sale proceeds become available to the county.

(c) Distribute any remaining net proceeds that are subject to sub. (4).

(4) HOMESTEAD PROCEEDS. If the former owner had used the property sold as the former owner's homestead at any time during the 5 years preceding the county's acquisition of it under this chapter, the county shall distribute the remainder of the sale proceeds to that former owner.

History: 1987 a. 378 ss. 120, 122; 1989 a. 104; 1997 a. 72, 224.

75.365 Agreements as to delinquent taxes. (1) COUNTIES MAY ENTER. Written agreements may be entered into and be operative between a county and any town, city, village, metropolitan sewerage district or area, drainage district, or any other territory, area or district for the benefit of which any taxes may be levied, therein, upon prior authorization and approval thereof by the governing bodies thereof, providing for the disposition of liabilities of the county to such municipality upon or arising out of the return to said county of delinquent taxes; the disposition of tax certificates of which the county may be the holder or owner; the liabilities of the county arising by virtue of its acquiring such tax certificates, and the disposition of such liabilities; the taking of tax deeds by the county; the liabilities of the county arising out of the taking of such tax deeds and the disposition of such liabilities; the sale of the lands upon which such tax deeds are so taken, or both; and the determination and disposition of any and all liabilities of the county in respect to any of the foregoing.

(2) LIABILITY OF COUNTY LIMITED. Such agreements may include provisions that the county upon acting pursuant to such agreement and the provisions thereof shall not be accountable or liable for any amount greater than that realized by it upon the sale of said lands to which it takes tax deed thereunder or the amounts set forth in said agreement, and that in acting pursuant to such agreement the county shall not incur or be subjected to any liability to anyone except as therein set forth and that if such county should by reason of acting thereunder incur or be subjected to any other or different liability to pay or account in respect to such delinquent taxes, then such local municipality will reimburse the county for such excess liability and indemnify it against any loss or damage that the county may sustain by reason of acting pursuant to such agreement; provided, that the city, town or village entering into such agreement may make payment, settlement or compromise of special assessment bonds to preclude or relieve the county from being subjected to liability thereon.

(3) SALE UNDER AGREEMENT. In the event of such agreement the county may sell any of the land to which it takes tax deed pursuant thereto, and that the title conveyed by the county upon such sale shall be in fee simple and free and clear from all tax liens or

Please give this
to the committee
clerk.

If possible please forward copies
of all correspondence distributed to
the committee regarding AB 321 to
me (Tim) in Rep. Seratti's office (18N).

Thanks

Tim Gioichi 6-3780