

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON FINANCE

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January 08, 2015  
Start: 11:00 a.m.  
Recess: 12:38 p.m.

HELD AT: 250 Broadway- Committee Rm, 14<sup>th</sup> Fl.

B E F O R E:

JULISSA FERRERAS  
Chairperson

COUNCIL MEMBERS:

COREY D. JOHNSON  
HELEN K. ROSENTHAL  
I. DANEEK MILLER  
JAMES G. VAN BRAMER  
LAURIE A. CUMBO  
MARK LEVINE  
ROBERT E. CORNEGY, JR.  
VANESSA L. GIBSON  
VINCENT IGNIZIO  
YDANIS A. RODRIGUEZ

1  
2 [gavel]

3 CHAIRPERSON FERRERAS: Good morning. First  
4 I'd like to apologize for starting off late. I was  
5 taping... [speaking Spanish] and it took me an hour  
6 and 45 minutes to get here from New Jersey, another  
7 reason why we should never live in New Jersey. Good  
8 morning and welcome to today's finance hearing. I am  
9 Julissa Ferreras and I am the chair of this  
10 committee. I want to thank everyone for joining us  
11 today. So nice to be with my colleagues three days  
12 in a row. Council... we've been joined by Council  
13 Members Cornegy, Miller, Rosenthal, Levine, and  
14 Ignizio. Today we will consider Intro 61, 612 which  
15 would extend the finance commissioner's authority to  
16 sell tax liens as well as add a few property owner  
17 protections to lean sale, to the lean sale law.  
18 This, this legislation is co, sponsored by myself,  
19 Council Member Menchaca, Council Member Torres, and  
20 Council Member Williams. Before I get into the  
21 details of the bill I want to explain the lien sale  
22 process. I will first start by saying that in the  
23 lien sale the city sells a lien on, on the property,  
24 they do not sell the property, I repeat the city  
25 does not sell the property at the lien sale. After  
the lien sale owners will still have the right to

1  
2 possession and title of their property until they  
3 pay off their debt or until prescribed time has  
4 passed without payment from the owner. When an  
5 individual owns a debt to the city, when an  
6 individual owes a debt to the city that is unpaid  
7 and delinquent a lien can be placed on the property  
8 for which the debt was accrued prior to 1996 after a  
9 certain time period of unpaid debt the city would be  
10 able to start foreclosure proceedings on the  
11 property if the debt remains unpaid. This process is  
12 known as In Rem. However the In Rem program was very  
13 expensive to the city because the city had to  
14 maintain the properties once they were in the city's  
15 possession. Not only did the In Rem program fail to  
16 address the underlying reasons for tax delinquencies  
17 and abandonment the city was able to quickly resale  
18 the properties to responsible private owners and as  
19 a result many properties remained in the city for  
20 over 30 years before they were sold. In 1996 this  
21 all changed with the lien sale. Instead of the city  
22 taking possession of a property once a property was  
23 in arrears the city would sell the liens to a  
24 private party, a trust, which then hires collection  
25 agencies called servicers to enforce a debt owed at,

1  
2 to the trust. Once the lien is sold to the trust the  
3 property owner can enter into a payment plan with  
4 the servicers to satisfy the debt which now resets a  
5 rest in the trust. By law once the city sells the  
6 lien to the trust foreclosure proceedings can begin  
7 only if the owner remains delinquent and has not  
8 entered into a payment plan or paid the interest on  
9 the liens for at least seven months. In the case of  
10 class one properties the time frame is one year.  
11 Since 2011 15 properties have been foreclosed upon.  
12 I wanted to explain that process to the public and  
13 my colleagues so that we can understand the lien  
14 sale and threat thereof is a tremendous enforcement  
15 tool for delinquent bill payers and in most  
16 instances does not result in foreclosure. The  
17 commissioner of finance has been granted the  
18 authority to sell liens for delinquent properties as  
19 well as other charges including water and sewer  
20 charges, emergency repair program charges and  
21 alternative enforcement program charges. In 2011 the  
22 council made a broad reform of the lien sale law and  
23 added a host of property owner protections. Some of  
24 the protections include increasing the threshold  
25 from when a property could be sold from water

1 charges for one year to two years, increasing the  
2 monetary threshold from a thousand to 2,000 for two  
3 and three family homes allowing payment agreements  
4 with no money down for a 10, for a term of 10 years.  
5 Reducing interest rates from 18 percent to 9 percent  
6 for most properties and excluding the properties of  
7 individuals who received a veterans property tax  
8 exemption from the lien sale. With the added  
9 protections of 2011 the city's lien sale law has the  
10 strongest property owner protections of any lien  
11 sale law in the entire country. And I quote is a  
12 model of municipalities across the country according  
13 to the national consumer law center. In 2011 the uh,  
14 the legislation, the legislation also added HDFC  
15 rentals are eligible, are eligible for lien sales if  
16 they were in arrears for at least two years and owned  
17 more, and owed more than 5,000 dollars. Despite many  
18 of the protections added in 2011 20 percent of the  
19 property owners notice for sale ultimately had their  
20 liens sold in the lien sale which is consistent with  
21 the percentages prior to the reform of the lien sale  
22 law. Since 2011 lien sale reform, the administration  
23 has informed the council that property owners that  
24 entered into payment agreements have a 38 percent  
25

1  
2 default rate, 15 properties have been foreclosed  
3 upon after the lien sale, and 21 HDFC rental  
4 properties have lien sales sold. Not for profit  
5 organizations with tax liens that fail to renew  
6 their property exemptions have been notice for the  
7 lien sale. Since 2011 the council has met with  
8 property owners, the administration and community  
9 based organizations about possible reasons why  
10 property owners continue to accrue tax liens.. amount  
11 that are eligible to be sold in a tax lien sale.  
12 Despite many protections added by the council we  
13 learned that many property owners affected by  
14 superstorm sandy chose to address the immediate need  
15 of property repairs rather than spend their funds  
16 paying charges owed to the city such as property  
17 taxes and water charges. Many non-for-profit  
18 organizations failed to renew their, their non-for-  
19 profit exemption status despite a 2011  
20 administrative change by the Department of Finance  
21 that now requires all not-for-profit organizations  
22 to annually renew their property tax exemptions  
23 eligibility status. Many property owners have  
24 defaulted on payment agreements were unaware of the  
25 extenuating circumstances existence to prevent the

1  
2 imposition of the five year ban on future payment..  
3 upon payment and the bill provided by lien sale  
4 servicers to property owners after a lien is sold is  
5 difficult to understand and does not clearly  
6 identify charges owed. The bill before us seeks to  
7 reduce the number of liens sold in the sale and  
8 insure that the tax lien sale is fair, efficient,  
9 and effective. This bill does many things so I won't  
10 outline all the provisions of the bill but major  
11 provisions of the bill include extensive DOF's  
12 commissioners authority to sell tax liens until  
13 December 2016, remove sandy affected properties from  
14 the lien sale, requires DOF to provide not-for-  
15 profits with the, with information about how to  
16 renew their property tax exemptions, requires DOF,  
17 DEP, and HPD to provide the council with results of  
18 lien sale outreach sessions and allows council  
19 members to request an outreach session in their  
20 district, creates a taskforce comprised of the  
21 administration of the council to examine ways to  
22 minimize non-payment of charges that subject, that  
23 are subject to the lien sale including increasing  
24 awareness and participation in tax benefit programs.  
25 More information is provided in your briefing

1 materials provided by the finance committee staff. I  
2 want to give a big thank you to, who I want to give  
3 a big thank you to because they worked very hard on  
4 this legislation and I want to thank the  
5 administration who work collaboratively with the  
6 council in finalizing this legislation. Okay. So  
7 we will now begin. Thank you. And uh my council will  
8 swear you in.  
9

10 COUNCIL: Do you affirm that your  
11 testimony will be truthful to the best of your  
12 knowledge, information, and belief?

13 JEFFREY SHEAR: I do.

14 COUNCIL: You may proceed.

15 JEFFREY SHEAR: Hello? Is that on? Okay.  
16 Good morning Chair Ferreras and members of the  
17 Finance Committee. My name is Jeffrey Shear and I am  
18 the Deputy Commissioner for Treasury, Payments, and  
19 Operations at the New York City Department of  
20 Finance. I am joined today by Samara Karasyk,  
21 Assistant Commissioner of External Affairs at the  
22 Department of Finance. Thank you for the opportunity  
23 to testify today in support of Intro number 612,  
24 legislation extending the city's authority until  
25 December 31, 2016 to sell tax liens for property



1 related liabilities owed to the city including  
2 property taxes, water and sewer charges, and other  
3 charges associated with real property. The  
4 legislation before the council today authorizes a  
5 process the city has conducted annually since 1996,  
6 the sale of tax liens. Selling tax liens is an  
7 important tool that enables us to collect unpaid  
8 property related taxes and charges and ensures  
9 fairness in equity among all property owners. The  
10 sale of tax liens has resulted in the collection of  
11 a total of 1.3 billion dollars since 1996 in  
12 delinquent taxes and charges essential to funding  
13 the city's vital programs. It has also contributed  
14 to the decline in the rate of delinquent property  
15 taxes to 1.4 percent in fiscal year 14 from a 4.4  
16 percent average in the three years before the first  
17 lien sale resulting in an enhanced collection of 5.4  
18 billion dollars. We expect the 2015 lien sale to  
19 generate approximately 60 million dollars. As you  
20 know a lien is a legal claim to property for unpaid  
21 property taxes and other charges owed to the city.  
22 Through, through the authority granted in this  
23 legislation the city sells the lien but not the  
24 property itself as the chair referenced to a  
25

1  
2 specially created trust. The trust then has the  
3 authority to collect the delinquent balance on the  
4 property. There are over one million properties in  
5 New York City. 98 percent of property owners pay  
6 their taxes on time. Annually about 25 thousand  
7 property owners are notified that the lien may be  
8 sold in relation to their property. These properties  
9 are eligible for the lien sale because they meet  
10 certain criteria. Properties may be eligible for the  
11 lien sale if they have at least 1,000 dollars in  
12 delinquent property taxes that are more than three  
13 years old. Notification which includes at least four  
14 mailings by the department of finance, the property  
15 owners, and interested parties before the sale, full  
16 page adds, and daily community and ethnic newspapers  
17 and numerous outreach events by DOF staff typically  
18 result in four out of five properties avoiding the  
19 lien sale altogether. These property owners avoid  
20 the lien sale by paying their delinquent balance,  
21 demonstrating that they qualify for senior citizen,  
22 veterans, or disability exemptions telling us that  
23 they own a build it back property recovering from  
24 hurricane sandy or entering into a payment plan with  
25 the department of finance. Ultimately the number of

1  
2 liens actually sold is typically reduced to  
3 approximately 5,000 properties. This process of  
4 ensuring that all property owners and other  
5 interested parties are notified and have an  
6 opportunity to resolve their delinquencies is what  
7 is projected to produce 60 million dollars this  
8 year. The legislation before the committee today  
9 codifies our continued outreach efforts in  
10 collaboration with the council by requiring that we  
11 issue a quarterly property status report on the lien  
12 sale and provide information to the council  
13 regarding our outreach events. Council members may  
14 request the lien sale outreach event for their  
15 district. It further establishes a 10 person task  
16 force equally balanced between the council and the  
17 administration to examine and make recommendations  
18 on refining and improving the lien sale process. DOF  
19 therefore supports the legislation and looks forward  
20 to working with the council to make the lien sale  
21 process as effective and as fair as it can be. At  
22 this time my colleagues and I would be happy to  
23 answer any questions you may have.

24 CHAIR: Thank you. And again thank you for  
25 your patience. And DEP are you... do you... yes, okay.

EMILY LLOYD: Good morning Chairwoman

Ferreras and members. I am Emily Lloyd, commissioner of the New York City Department of Environmental Protection. I'm joined today by Steve Lawitts, First Deputy Commissioner and Executive Director of the New York City Water Board as well as other DEP staff. Thank you for the opportunity to testify on Intro 612 which would reauthorize the sale of property tax and water/sewer liens. As you know DEP has overall responsibility for the city's water supply and sewer system including providing drinking water to all New Yorkers, maintaining pressure to fire hydrants, managing storm water, and treating waste water. All of our water related expenses both operational and capital are paid for with the money collected from the water and sewer rate charge billed to all New York City property owners and authorized annually by the New York City Water Board. DEP standalone lien sale authority for seriously delinquent water and sewer charges which expired on December 31<sup>st</sup>, 2014 is a critical enforcement tool that allows us to keep water and sewer rates as low as possible while fulfilling our agency's mission. I appear before you today to

1  
2 express DEP's strong support of Intro 612 and to  
3 urge the reauthorization of DEP's lien sale  
4 authority. Each year DEP collects more than 100  
5 million dollars of revenue directly attributable to  
6 the sale of water and sewer liens and the pre-lien  
7 sale process. In addition we estimate that we also  
8 collect another 360 million dollars annually due to  
9 the lien sales Halo effect, that is the inducement  
10 of customers to stay current on their charges to  
11 avoid being placed on the lien sale list. These  
12 funds currently represent close to 13 percent of our  
13 overall budget, an amount that is vital to meeting  
14 our obligations every year. As background on the  
15 sale of the lien sale for water and sewer charges  
16 for fiscal year 2014, in October 2013 well before  
17 the required period DEP sent notices to nearly 22  
18 thousand properties that had either already met or  
19 were on track to meet the eligibility criteria for  
20 inclusion in the fiscal year 2014 lien sale.  
21 Properties in tax class two, three, and four were  
22 eligible for the lien sale if their delinquency on  
23 water and sewer payments was at least one thousand  
24 dollars for at least one year and on two and three  
25 family homes in tax class one for the lien sale if

1  
2 their delinquency was at least 2,000 dollars for a  
3 period of at least a year. In January 2014 DEP sent  
4 another notice to more than 11,000 properties that  
5 met the criteria for inclusion in the lien sale. In  
6 February 2014 the official 90 day notice was sent to  
7 16 thousand properties representing 193 million in  
8 outstanding charges. In addition these properties  
9 were listed on the Department of Finances website  
10 and in a printed notice that was published in the  
11 daily news. The same group of properties continued  
12 to receive a 60 day notice, a 30 day notice, and a  
13 10 day notice unless they either paid their  
14 delinquent balance or signed a binding payment  
15 agreement for the delinquent balance. These notices  
16 resulted in over 13 thousand payments made for  
17 amounts totaling 108.6 million dollars. In fiscal  
18 year 2014 DEP sold liens on only 2,267 properties,  
19 or less than 15 percent of the original 90 day list.  
20 As of January 5<sup>th</sup>, 2015 DEP has approximately 20,717  
21 customers with 310 million dollars in outstanding  
22 charges that would be eligible for the lien sale.  
23 Our goal is to make sure that the water and sewer  
24 system receives the revenue it needs to support  
25 current and future operations. DEP's lien sale

1 authority is an essential tool that not only  
2 provides needed revenue but also ensures that all  
3 building owners pay for the water and sewer services  
4 that their buildings consume. Without continuing  
5 lien sale authority we would in affect be returning  
6 to the years before 2008 when delinquent customers  
7 perceived that there were no consequences for  
8 failure to pay their water bills. We are concerned  
9 that this would create a large gap in revenue which  
10 would result in the significant increase in the  
11 water rate. Not renewing the lien sale authority  
12 would unfairly shift the financial burden from a  
13 minority of delinquent customers to the majority of  
14 customers who pay their bills on time, pay their  
15 fair share, and who would now have to pay even more  
16 because the water and sewer system no long has its  
17 most effective enforcement too available. Since 2011  
18 we have also implemented several initiatives aimed  
19 at helping our customers and reducing individual  
20 costs. We have installed automated meter reading  
21 devices on 90 percent of all, 96 percent of all  
22 properties. Customers are now able to view their  
23 water usage data in near real time allowing them to  
24 manage their consumption more effectively and  
25

1  
2 potentially reduce their charges. Since 2011 more  
3 than 72 thousand customers have received automated  
4 leak notifications and saved more than 60 million  
5 dollars in charges because they have been able to  
6 respond and fix their leaks in a timely manner.  
7 Accordingly this year the water board also expanded  
8 the leak forgiveness program to include leaks of  
9 maintainable fixtures such as toilets and sinks  
10 which were previously excluded. Over one thousand  
11 customers have benefitted from this change so far  
12 receiving 1.2 million dollars. Finally and perhaps  
13 most relevant to the lien of water and sewer charges  
14 because of AMR DEP's estimated bill rate has fallen  
15 by more than 82 percent since 2009. As a result 98  
16 point, 97.8 percent of the water and sewer bills  
17 sent to metered customers reflect actual usage which  
18 led to a 55 percent drop in customer disputes in  
19 fiscal year 14 versus fiscal year 11 and a 40  
20 percent reduction since fiscal year 18. DEP will  
21 also begin to offer monthly billing as an opt in  
22 option to all 836 customers by June 30<sup>th</sup>, 2015. In  
23 addition to these initiatives DEP is committed to  
24 protecting its most vulnerable customers by ensuring  
25 that everyone pays his or her fair share for the



1 water and sewer services used. That is why the water  
2 board in partnership with with DEP adopted the  
3 lowest rate increase in nine years, froze water and  
4 sewer bills for roughly 25 percent of all single  
5 family home owners, many of them seniors and  
6 partnered with the New York City Human Resources  
7 Administration to carry out Mayor de Blasio's  
8 progressive vision by creating the homeowner  
9 assistance program to help over 12,500 of our low  
10 income customers. Again we strongly support Intro  
11 612 and urge you to vote in favor of the continued  
12 fiscal health and resiliency of the water supply  
13 distribution and waste water collection and  
14 treatment systems. While uninterrupted lien sale  
15 authority is crucial we are mindful of, of issues  
16 some members would have preferred to address in the  
17 context of this reauthorization. We believe the  
18 inclusion of a taskforce in this bill ensures that  
19 these issues will receive the thorough and  
20 deliberative con, deliberative consideration they  
21 deserve in anticipation of the next reauthorization  
22 two years from now. We look forward to working with  
23 the council and other members of the task force to  
24 ensure that the tax and water lien sale process is  
25

1  
2 fair, efficient, and effective. I thank you for the  
3 opportunity to testify today and we would be happy  
4 to address any of your questions.

5 CHAIR: Thank you very much for your  
6 testimony. And I, I really want to thank, thank you  
7 for our monthly billing agreement, it's something  
8 that I think will really help a lot of New Yorkers  
9 and it's just a thoughtful process why which we  
10 should be processing billings. So I'm going to ask a  
11 few questions and then I'm going to open it up to my  
12 colleagues and I'm going to come back on a second  
13 round because I want everybody to have an  
14 opportunity to ask their questions. And Council  
15 Member Menchaca's here as a co-sponsor but... want to  
16 do a statement a little later? Or you're, or you're  
17 ready? Okay so I'll ask questions and then we'll...  
18 We've been joined by Council Member Johnson,  
19 Rodriguez, and Menchaca. So let's talk about the  
20 post lien sale questions. So how many properties  
21 have been foreclosed upon after being sold in the  
22 lien sale since 2011?

23 JEFFREY SHEAR: Right. So I think our  
24 latest statistics and I think you may have  
25 referenced this in your opening statement is that we

1  
2 have a record of 15, 14 of those associate with the  
3 2011 lien sale and one associate with the 2012 lien  
4 sale.

5 CHAIR: And are foreclosures limited to a  
6 certain area when you... these foreclosures where are  
7 they? Throughout the city are they in particular,  
8 are there higher areas?

9 JEFFREY SHEAR: I, I'd have to get back to  
10 you on that.

11 CHAIR: Okay we'd appreciate that,  
12 especially since we've been looking at numbers and  
13 we see that certain districts are a little bit  
14 higher when it comes to the lien sale. So I want to  
15 know if the actual sale is consistent to the higher  
16 communities or if it's throughout the city?

17 JEFFREY SHEAR: Sure.

18 CHAIR: Okay.

19 JEFFREY SHEAR: What we would say is that,  
20 and I think we received a question on this prior to  
21 the hearing is that if you go back to older years  
22 the number of foreclosures has actually dropped so...

23 CHAIR: Right.

24 JEFFREY SHEAR: If you look at say the  
25 2009 lien sale there were 45 foreclosures relating

1  
2 to that and 29 relating to the 2010 foreclosure  
3 sale. It's still early so the 14 for the 2011 lien  
4 sale is not a final number because the, you have to  
5 waiting seven months the lien buyer before  
6 foreclosure may commence and the foreclosure process  
7 itself takes a couple of years. So the 2011 number  
8 is incomplete but if you look at those prior years  
9 the number of foreclosures that are actually on the  
10 downward train.

11 CHAIR: So you actually answered my next  
12 question. So seven months and how long... you said a  
13 couple years but do you know exactly how many years  
14 foreclosure proceedings are? Is it two, is it...

15 JEFFREY SHEAR: It, it, I don't know  
16 exactly.

17 CHAIR: Okay.

18 JEFFREY SHEAR: It's approximately two  
19 years after the, the seven month...

20 CHAIR: Okay.

21 JEFFREY SHEAR: ...time period.

22 CHAIR: On average how many liens are  
23 deemed effective in each lien sale after the lien is  
24 sold?

25

1  
2 JEFFREY SHEAR: I don't think I, I don't  
3 think we have those figures today, we'll have to  
4 get... [cross-talk]

5 CHAIR: Does OMB have those...

6 JEFFREY SHEAR: No. We'll, we'll get back  
7 to you with those...(cross-talk)

8 CHAIR: Okay. My questions are really  
9 good today huh, you got to get back to me. I wanted  
10 to go into and, and this is something that I've been  
11 talking with the administration both while we were  
12 negotiating but in particular in the last couple  
13 days I've been talking to both directly to the  
14 commissioner but also to some people over on the  
15 mayor's side and it's specifically to the HDFCs and  
16 the rentals. If an HDFC is sold in a lien sale could  
17 the servicer uh institute foreclosure proceedings?

18 JEFFREY SHEAR: Go ahead.

19 CHRIS ALLRED: Hi, I'm Chris Allred,  
20 Assistant Commissioner for Asset Management at HPD.  
21 I don't know specifically whether the servicer would  
22 institute the foreclosure with regard to the rental  
23 HDFCs. I think that's a, a, more of a technical  
24 question and you know we can get back to you..  
25 [cross-talk]

1  
2 CHAIR: Okay if you can get back to me. If  
3 there were foreclosure and are there any  
4 requirements that the purchaser keep the property as  
5 affordable?

6 CHRIS ALLRED: Yes we've worked to ensure  
7 that the, these, that any foreclosure would include  
8 the ongoing provisions of regulatory agreement and  
9 the rental HDFCs would continue to be subject to  
10 rent stabilization.

11 CHAIR: So this is where my question and  
12 then some of the debate back has been even 'till I  
13 think early this morning that we've been texting. If  
14 the HDFC owes a significant amount of money wouldn't  
15 it be in some ways advantageous if they decide let  
16 us get sold in the foreclosure we no longer have a  
17 regulatory agreement with, with HPD. Often times  
18 it's expired and you don't have a new regulatory  
19 agreement. It, wouldn't it be, if there, if there  
20 isn't an interest in keeping it affordable wouldn't  
21 they be almost incentivized to go through the  
22 process, get out of the HDFC agreement, and then  
23 create this market rate apartment?

24 JEFFREY SHEAR: If there is a regulatory  
25 agreement the, the provisions... [cross-talk]

1  
2 CHAIR: If there is area and if it's  
3 expired.

4 JEFFREY SHEAR: ...going to continue. If  
5 it... [cross-talk]

6 CHAIR: Right.

7 JEFFREY SHEAR: ...is expired they'd still  
8 be subject to rent stabilization. They would still,  
9 we would be faced with largely the same problem that  
10 we have in any case which is our desire to preserve  
11 affordable housing in figuring out a way to  
12 incentivize the owner to continue to maintain the  
13 property as affordable housing.

14 CHAIR: My issue is if we continue to  
15 include the HDFCs in the lien sale is, can't this be  
16 used potentially as a tool to get out of  
17 affordability?

18 JEFFREY SHEAR: No I don't think that we  
19 see it that way, we, we, we see that the, the  
20 affordability continues, that there's not any  
21 subsequent change from that standpoint. The, the  
22 dynamic of a property wanting to get out of  
23 affordability is I think going to be largely the  
24 same whether it's after the lien sale or not.

1  
2 CHAIR: That, I guess that's your  
3 perspective. Our perspective is that you can go  
4 through this process, get out of, go through the  
5 process of the lien sale and then you no longer have  
6 an, a regulatory agreement with HPD, you no longer  
7 have to be in HDFC so then now you can be market  
8 rate.

9 JEFFREY SHEAR: Well again our goal is to  
10 preserve affordable housing and be... [cross-talk]

11 CHAIR: I under... right.

12 JEFFREY SHEAR: ...and, and... so...

13 CHAIR: I understand the goal. I'm just,  
14 what the intentions may be there I think potentially  
15 if we continue down this path which in, with  
16 including HDFCs in the lien sale we are allowing or  
17 creating an opportunity for those that want to get  
18 out, to just take the loss and say you know what I'd  
19 rather go through the whole procedure and get out of  
20 the regulatory agreement and not have to deal with,  
21 with all these regulations but also let's go through  
22 the foreclosure process and I can get into a market  
23 rate and I'm no longer an HDFC.

24 JEFFREY SHEAR: Yeah a, I, I, from, I'm  
25 trying to I guess understand the why somebody would



1  
2 want to do it that way. They, they have a regulatory  
3 agreement, if they wait until the end of the  
4 regulatory agreement they would have the.. [cross-  
5 talk]

6 CHAIR: So I guess how many.. [cross-talk]

7 JEFFREY SHEAR: They, they, they could  
8 pursue.. [cross-talk]

9 CHAIR: ...how often or.. It is my  
10 understanding and you can clarify that it, have,  
11 regulatory agreements that are expired are common.  
12 It's not as if HPD is very much on top of the  
13 regulatory agreements, is that incorrect?

14 JEFFREY SHEAR: I don't know that I would  
15 say that it's common. We are actively trying to look  
16 at when a regulatory agreement may expire and start  
17 a conversation with the owners of the property about  
18 maintaining the affordability, we talk to them about  
19 the various different reasons why they might want to  
20 do that and uh extend a, a tax benefit and a subsidy  
21 to address capital needs and..

22 CHAIR: So I think... and part of this  
23 legislation is creating a task force because we're  
24 going to have this conversation on how we revisit  
25 this in two years. But I think before we pass this

1  
2 legislation we have to continue the conversations  
3 that I'm currently having with the, with the  
4 administration, with the commissioner and the  
5 speaker. Because I think there, there can be  
6 protections that we may have to include in this lien  
7 sale when it comes to HDFCs until we get these  
8 things clarified. And I know that you know HPD you  
9 have your position but I'm hoping that we can  
10 continue these conversations as, as we go through  
11 this hearing and you will hear from many of our  
12 colleagues on different, a whole host of other  
13 issues. But HDFC is something that's really  
14 important both to the speaker and myself and this  
15 committee and the council. And I think that there is  
16 not enough clarity when it comes to HDFCs and the  
17 potential of us losing affordable housing especially  
18 when this administration is wanting to preserve and  
19 create 200, 200 thousand additional units of  
20 affordable housing I think, I would hate for someone  
21 to find a loophole and go the other way around and  
22 us potentially be doing, or hurting the process of  
23 affordability. So I'm, we're going to continue the  
24 conversations because I think we can go back and  
25 forth on this one.

1 JEFFREY SHEAR: Okay we... [cross-talk]

2 CHAIR: Okay.

3 JEFFREY SHEAR: ...welcome to, we would be  
4 very happy to be part of that conversation. [cross-  
5 talk]

6 CHAIR: Absolutely. Okay so I'm going to  
7 talk about payment agreements and then I'm going to  
8 open up and, and a DEP question and then we're going  
9 to open it up to my colleagues and I'll come back  
10 around. For individuals who have entered into a  
11 payment agreement DOF and DEP allow no money down  
12 and up to ten years to pay the outstanding debt  
13 which will immediately remove them from the lien  
14 sale. What is the default rate for individuals with  
15 payment agreements?  
16

17 EMILY LLOYD: For DEP it's about 40  
18 percent.

19 JEFFREY SHEAR: It's approximately the  
20 same for property taxes.

21 CHAIR: So do you, do you argue, or, can  
22 you explain to me why you believe that the  
23 percentage is so high because there are those that  
24 argue that because there is a no money down we may  
25 capture more people that really have no intention of

1  
2 paying and it just allows them to buy more time or  
3 that they're over... leverage and really don't  
4 understand the payment agreement also means you're  
5 going to have to pay your present property tax, your  
6 present water bill, and the agreement. So do you  
7 think that there is a way that we can explain better  
8 or what is in your opinion, what is it, what's  
9 causing it and how can we improve it? Because 40  
10 percent is still very high especially when we're,  
11 we're trying to incentivize a payment agreement.

12           EMILY LLOYD: This is just a footnote to  
13 that, we had the same default rate before we had  
14 lien sale on payment agreements.

15           CHAIR: So it hasn't improved?

16           EMILY LLOYD: It hasn't improved or hasn't  
17 gotten worse either way.

18           CHAIR: Okay that's true. Half and...

19 [cross-talk]

20           EMILY LLOYD: Looking at the, at the glass  
21 half full.

22           CHAIR: Right, right half full, let's go  
23 with half full.

24           SAMARA KARASYK: So I can just say...

25           CHAIR: Can you just state your name.

1  
2 SAMARA KARASYK: Samara Karasyk, Assistant  
3 Commissioner or External Affairs the Department of  
4 Finance. You know we spent a lot of time doing  
5 outreach events and at those outreach events many  
6 people will talk to us about payment agreements,  
7 many of them will enter into payment agreements. And  
8 I think it's a lot of the issues that you mentioned  
9 Chair. Sometimes people just can't afford their  
10 property taxes or their water charges. There's a lot  
11 of things that are going on. If it's something  
12 that's happening in the short term a payment  
13 agreement is going to help them. But if it's like a  
14 long term financial problem that they're having the  
15 payment agreement isn't going to help because as you  
16 said that helps for now but then they're going to  
17 owe the next quarter of property taxes and the next  
18 quarter of water charges. Those don't go away. So it  
19 doesn't always help with that. And you know we do  
20 find that there are some people that game the system  
21 which is why, and the last lien sale authorization  
22 that we did we made it so that people if they  
23 defaulted couldn't enter into another payment  
24 agreement for five years. I know that that was  
25 something that was worked on because some people

1  
2 just try and you know get out of it, get out of it,  
3 get out of because unfortunately there are some  
4 people that it doesn't help them. So it does help  
5 some, others it doesn't and I think sort of that may  
6 go to what commissioner Lloyd mentioned which is  
7 some people, it's just, they, they can't do it with  
8 a payment agreement or not the payment agreement so..

9 CHAIR: so when you work through the  
10 payment agreement process is there like a  
11 calculator, an income based calculator it takes into  
12 consideration, other mortgage, you know mortgage  
13 income or.. Do you, is there a, a financial support  
14 or component that you use to establish the actual,  
15 what they payment will be?

16 SAMARA KARASYK: Right now we don't have  
17 that flexibility for our payment agreements. And  
18 when we say payment agreements our payment  
19 agreements are the same.. whether they're in the lien  
20 sale or not in the lien sale. And we look forward to  
21 talking about that in the working group because.. you  
22 know we know that there are a lot of different ways  
23 of looking at that and so we look forward to having  
24 the time to sort of thoughtfully see what makes  
25 sense in these situations.

1  
2 CHAIR: Yeah and I think especially when  
3 it's income based some people with the, with the  
4 mortgages some people have very bad mortgage deals,  
5 other people have no mortgage on their property. So  
6 I think those things need to be taken into  
7 consideration and we'll bring them up in the task  
8 force conversations. Yes, you could just state your  
9 name for the record.

10 STEVEN LAWITTS: I'm Steve Lawitts, First  
11 Deputy Commissioner of DEP. And uh we uh sit down  
12 with each potential payment agreement customer and  
13 we show them the payment options if they choose a  
14 ten year repayment period, if they choose a one year  
15 payment period or if they, varying percentages of  
16 down payments so that they understand from the  
17 outset what their monthly obligation is going to be.  
18 And then anyone who signs a payment agreement  
19 automatically goes into monthly billing so that they  
20 have that constant notice.

21 CHAIR: Thank you. In your testimony you  
22 stated that DEP sends notices to nearly 22 thousand  
23 properties in October. In addition to the four  
24 notices that are sent by DOF beginning in February  
25

1  
2 does DEP also send out lien sale notices in the same  
3 time period?

4 STEVEN LAWITTS: Yes we, we, we send out  
5 90 day, 60 day, 30 day, and 10 day notices. And we  
6 are also preparing to send out within the next week  
7 a pre, an advisory letter to customers that are  
8 eligible for the lien sale if the lien sale gets  
9 approved.

10 CHAIR: We would love to see that letter  
11 if you can share with the committee what the pre-  
12 sale... So at what point in the timeline is the pre  
13 letter... [cross-talk] Is this like a few days before  
14 or a... [cross-talk]

15 SEVEN LAWITTS: No this would, so if, if  
16 the 90 day notice is targeted for early February we  
17 want to send out a notice 30 days before that so  
18 within the next week.

19 CHAIR: Got it. Okay I have a few  
20 additional questions but I'd like to open it up to  
21 my colleagues. We'll have Council Member Menchaca  
22 who's a co-sponsor to the bill and then we'll start  
23 a second run after that.

24 COUNCIL MEMBER MENCHACA: Thank you chair  
25 so much and for really what I, I think is an



1  
2 impressive moment right now for the city council in  
3 something that's been uh, even for me as a learning  
4 process to understand how complicated this is and  
5 for a, a new Yorker that is just trying to do the  
6 right thing. This bill that I'm so proud to be part  
7 of really kind of helps get at that. I, I want to  
8 say a couple things about just the, the atmosphere  
9 that we're in two years post, plus sandy and the  
10 frustrations that are on the ground and they're  
11 still real and representing Red Hook that continues  
12 to be in so many ways in, in struggles right now. We  
13 have the opportunity here to do a couple things that  
14 I want to underscore about this piece of legislation  
15 and what I'm hearing is, is, is positive. One it,  
16 it, it just continues to give the authority for, for  
17 the department of finance and the commissioner. And  
18 we remove effectively sandy affected properties from  
19 the lien sale. It also allows to, for us to  
20 articulate the relationship that we want with our  
21 communities with our city council members. And so  
22 these are all things that are positive in creating  
23 that goal for city agencies working in partnership  
24 with the city council to interact with our, our  
25 constituents. And so I'm just really really excited

1  
2 about what we are building here for the future as  
3 we, as we, as we tackle with how you say that New  
4 Yorkers are, are, are, are trying to do the, the,  
5 the best thing and we're getting that information  
6 out to them. So I'm really excited for, for what  
7 this bill does and how, how we move forward  
8 especially with the sandy affected properties. Now  
9 speaking of the sandy affected properties many of  
10 them were removed from the tax lien sales. And so I'  
11 like to know a little bit about numbers for 2013 and  
12 2014 and which ones, especially those that were in  
13 red placards and yellow placards were actually  
14 removed of, in 2013 and 2014. Do you have numbers  
15 for that that you can share with us.

16 SAMARA KARASYK: So for 2013 I don't have  
17 numbers. I have to get back to you. It was a very  
18 small number because there hadn't been that much  
19 time that elapsed between the storm and the lien  
20 sale. So you know people have to have more than a  
21 thousand dollars in outstanding taxes for more than  
22 three years...

23 COUNCIL MEMBER MENCHACA: Mm-hmm.

24 SAMARA KARASYK: So I think there was a  
25 minimal number but I don't have that. However for

1  
2 2014 it was seven red, 51 yellow, and 157 in the  
3 Build it Back Program. And we can follow up with you  
4 on the specific district information. I have it  
5 somewhere. We just weren't able to get it together...  
6 [cross-talk]

7 COUNCIL MEMBER MENCHACA: That'll be great  
8 if you get that...

9 SAMARA KARASYK: Yeah.

10 COUNCIL MEMBER MENCHACA: ...that over to  
11 us. And do you have an understanding about what the  
12 property tax class is for, for these properties...  
13 were they in?

14 SAMARA KARASYK: I think most of them were  
15 class ones but again I'll have to follow up with  
16 you.

17 COUNCIL MEMBER MENCHACA: Okay that'd be  
18 good to, to kind of include into, into that, that  
19 piece. And you'll give us the district break down.  
20 Do you have a sense about where most of these, these  
21 properties were located? Is it one borough that they  
22 kind of stood out?

23 SAMARA KARASYK: I'm sorry I don't, I  
24 don't know...

25 COUNCIL MEMBER MENCHACA: Okay.

1  
2 SAMARA KARASYK: I'll get you that  
3 information though.

4 COUNCIL MEMBER MENCHACA: Great. That's,  
5 that's going to be I think critical for us to  
6 understand a lot of the pieces about what we're,  
7 what we're talking about. I, I'll, I'll pause there  
8 but again this really kind of sets tone for the  
9 partnership that the city council is serious about  
10 and, and how we, how we translate these  
11 opportunities for our local residents. And, and I  
12 think we have to believe... and I've seen the tenacity  
13 of so many of these small businesses and home owners  
14 that want to do the right thing and, and we have the  
15 opportunity here to get that to them. So thank you.

16 CHAIR: Thank you Council Member. We've  
17 been joined by Council Member Cumbo and Majority  
18 Leader Van Bramer. We will now hear from Council  
19 Member Rosenthal.

20 COUNCIL MEMBER ROSENTHAL: Thank you very  
21 much Chair and thank you to the authors of this  
22 legislation which will help take care of and, and  
23 bring new breadth to the tax lien sale so I really  
24 appreciate it. I, I, actually chair I'd like to  
25 follow-up on your point that you were making about

1 the HDFC properties and concern about losing rent  
2 regulated buildings, affordable housing. I'm  
3 wondering if there's a way for us to in the spirit  
4 of, of what the chair was saying for continued  
5 conversation. If there's a way to make the language  
6 in the bill just a little bit more clear to the lay  
7 reader that on the HDFC properties every effort, all  
8 efforts will be made to ensure that these units,  
9 these buildings remain in affordability, in  
10 affordability program. So the, the sticky wicket as  
11 I, as I understood it that the chair was getting at  
12 is what do you do with the rental property that has  
13 now come out of rent regulation where that has  
14 expired right... So and I think that's what she was  
15 trying to get at in asking you about how do we  
16 guarantee that those units. And your answer was well  
17 they'll still be the, the units themselves and the  
18 individuals staying there will still have their rent  
19 regulatory leases right, agreements. And the problem  
20 is what happens if those are just 20 year leases and  
21 they end and they come out. What do we do then? And  
22 so I'm wondering, I guess I'm just echoing her point  
23 if we could work on language that would make it  
24 clear to lay language that would make it clearer  
25

1  
2 that every effort will be made to keep those units  
3 affordable.

4 JEFFREY SHEAR: Sorry... we, we would  
5 welcome the opportunity to have a conversation about  
6 how to make it clearer that we're going to do  
7 everything to preserve, everything we can to  
8 preserve affordable housing, that is of course our  
9 goal just to, again the where there's a regulatory  
10 agreement rent stabilization that survives, where  
11 there's not, it is a reality that we have at times  
12 where we then try to engage the owner to maintain  
13 affordability to get a new tax benefit or accept  
14 subsidy but that is occasionally a, a dynamic that  
15 we face. And that's true for properties prior to the  
16 tax lien sale... [cross-talk]

17 COUNCIL MEMBER ROSENTHAL: Sure.

18 JEFFREY SHEAR: ...as well as after a tax  
19 lien sale.

20 COUNCIL MEMBER ROSENTHAL: Sure. So what  
21 we're trying to do here is use the hook of the tax  
22 lien sale as an opportunity to clarify that the goal  
23 is to keep these units in affordability. So I think  
24 that's what we're trying to get at. Yes it is a  
25

1  
2 stumbling block that these units have, have expired  
3 agreements.

4 JEFFREY SHEAR: So yes we, we certainly  
5 want to preserve affordable housing that is, part of  
6 the bill is the idea that we would continue that  
7 conversation of having improve the process and, and  
8 ensure that the properties remain affordable and  
9 we'd welcome the opportunity to continue that  
10 conversation additional ways to get at that goal.

11 COUNCIL MEMBER ROSENTHAL: Okay. Do you  
12 have suggested language that you would, you know  
13 maybe we should start the ball there, I mean not  
14 right now obviously but...

15 BABA HELM: Hi Council Member. My name is  
16 Baba Helm. I'm Assistant Commissioner for Government  
17 Relations at HPD. The bill talks about the, that,  
18 the city and through the taskforce with a number of  
19 agencies including HPD is going to be looking at the  
20 tax lien sale.

21 COUNCIL MEMBER ROSENTHAL: Yep.

22 BABA HELM: And in particular the impact  
23 on affordable housing and that through the taskforce  
24 and the meetings that we will engage and include the  
25 council on we can holistically look at the process,

1  
2 the number of properties that have gone through the  
3 tax lien sale, because for each building that, that  
4 the circumstances of the building may differ and,  
5 and whether or not affordability has been truly lost  
6 we can also consider it at that time.

7 COUNCIL MEMBER ROSENTHAL: Yeah no the  
8 task force is, task force is the step forward that's  
9 so amazing. And you know I have full faith in that.  
10 I'm just wondering if there was some way of, of  
11 tweaking this bill to, to codify that that is the  
12 goal of the task force or that... [cross-talk]

13 CHAIR: ...we have, we have... it's clearly  
14 stipulated in the bill, the goal of the taskforce. I  
15 think we will be revisiting it and if there is  
16 language that we can... [cross-talk] improve upon  
17 we'll do that from, we'll give you the  
18 recommendation how about that?

19 COUNCIL MEMBER ROSENTHAL: Oh sorry..  
20 [cross-talk] that's what I meant to say, not the  
21 other way around so..

22 CHAIR: We'll, we'll continue our  
23 conversations where very much in, in contact an...

24 COUNCIL MEMBER ROSENTHAL: Got it sorry.

25 CHAIR: ...make sure to tweak that.



1  
2 COUNCIL MEMBER ROSENTHAL: Sorry. Thank  
3 you very much.

4 BABA HELM: Thank you.

5 CHAIR: Okay. Alright so I'm going to ask  
6 a, a few more questions and we're actually going to  
7 be wrapping up. So I wanted to talk, first outreach  
8 I have to say I've done two outreach sessions with  
9 the administration and some of my colleagues have  
10 also... Okay my colleagues have also and they've been  
11 phenomenal. The turnout has been amazing. I think  
12 there is a difference between having calls made to  
13 people as opposed to just mailings. The automatic,  
14 the robo-calls really work. And it's, really was a  
15 pleasure to be able to record those auto calls  
16 because a lot of constituents feel a different  
17 relationship with their elected officials or even  
18 some ways like oh my god Julissa called me I better  
19 go. As opposed to commissioner Gia who we love but  
20 you know they don't necessarily see I think there's  
21 the sense of being called to action. I wanted to  
22 talk... so I wanted to thank you. I think it's  
23 working, we just have to figure out ways... We're  
24 pulling together a round table with the, those  
25 districts that have a higher lien sale internally so

1 we're also trying to work together and figure out  
2 processes that work best for our constituents.  
3 Because we really actively want to, we really hope  
4 that when we revisit this next lien sale our numbers  
5 have dropped in different areas in New York City  
6 where we've seen a consistent high number of lien  
7 sales. I wanted to talk about the emergency repair  
8 charges. In 2011 the city added emergency repairs as  
9 a standalone charge because... at the time there was  
10 over 44 million dollars in unpaid ERP charges which  
11 accounted for 38 percent of the debt owed to the  
12 city. The lien sale has been seen as a great  
13 enforcement tool has a delinquency rate of ERPs debt  
14 decline since 2011.

16 SAMARA KARASYK: I don't have that number  
17 with me today. We'll have to work with HPD to get  
18 that for you. I know that it has improved it but I  
19 just don't know what the number is.

20 CHAIR: Okay so when you answer that  
21 question I'd like to know the rate of the  
22 delinquency and what particular challenges do  
23 homeowners face in paying off the uh emergency  
24 repair charges? It's 44 million dollars, it's  
25 something that's important to this council

1  
2 obviously. And, and then before I know Council  
3 Member Rodriguez has some questions I wanted to talk  
4 specifically about the non-profits. I know that  
5 there was a bit of a crisis, the last administration  
6 for some time didn't necessarily list the yearly  
7 renewal. Then there was a part where the last  
8 administration did enforce the yearly renewal and  
9 it's created kind of, well it's created a confusion  
10 for many of our non-profits and, which, which often  
11 find themselves in the lien sale process. Can you  
12 please describe the current non-profit renewal  
13 process including ways DOF notifies non-profits that  
14 it is time for them to renew?

15           STEVEN LAWITTS: Yes. So we mailed a non-  
16 profits renewal notice in august or September for  
17 the renewal that is due on January 5<sup>th</sup> giving them  
18 four months to complete the simple form online. We  
19 also make phone calls and we have been sending  
20 emails, up to seven emails. The renewal notice has a  
21 password they need to submit the form online. We do  
22 make exceptions if someone needs to submit a paper  
23 form. We notice people at least four times telling  
24 them by both email and hard mail.

25

1  
2 CHAIR: Does DOF currently do anything to  
3 notify non-profits that didn't renew their exemption  
4 at the beginning of the year, of the process to have  
5 their back taxes cancelled once they renew their  
6 property tax exemption. I found that some non-  
7 profits, once they're trying to resolve the problem  
8 find themselves in limbo where they're still getting  
9 billed for those years that they weren't part of the  
10 exemption and there's all this confusion which, and  
11 in many cases, in some cases there is non-profits  
12 that owe thousands of dollars in property taxes. So  
13 they get renewed on that year. However the back tax  
14 years they fall in this limbo and there seems to be  
15 a disconnect between what is owed and where they are  
16 in status present year.

17 SAMARA KARASYK: Okay so most not-for-  
18 profits that fail to renew and then apply anew and  
19 qualify for the exemption manage to have those  
20 retroactive benefits, we, retroactive charges wiped  
21 out as long as they can prove continued use and we  
22 will work with them and the controller's office and,  
23 you know to try and make that happen. There are some  
24 that can't have them wiped out either because they  
25 didn't qualify for the exemption at the time or they

1  
2 only have a partial exemption so that is sometimes  
3 something that we will see in the lien sale for  
4 example is a not-for-profit uses part of their  
5 location, a church has a daycare center and the  
6 daycare center doesn't qualify for the not-for-  
7 profit uses so that portion of the building does  
8 still owe taxes, so that does sometimes happen too.

9 CHAIR: And how long does this wiping out  
10 process take?

11 SAMARA KARASYK: When they come to us and  
12 submit a new application if they can prove that they  
13 have continued use that qualified for the exemption  
14 once we've processed the application I don't, I  
15 don't know that it takes that long. It kind of  
16 depends how far back it goes...

17 CHAIR: Right.

18 SAMARA KARASYK: ...like how long they've  
19 fallen off for. Since we started the renewal period  
20 it hasn't typically been that long of period of  
21 time.

22 CHAIR: Because there's still some non-  
23 profits out there that are part of that, those lag  
24 years where they were assuming that they didn't have  
25 to renew. And it's many years, it could be eight to

1  
2 ten years in some cases. So it's all that collective  
3 property tax issue. And, and many of us see it in  
4 our district offices. And I just want to clarify for  
5 the, for the purpose of this hearing and anybody  
6 watching that one they should probably reach out to  
7 their council members but if they can't reach out to  
8 their council members who can they reach out to and  
9 what do they need to provide to you so that this can  
10 be addressed?

11 SAMARA KARASYK: Well they can email us  
12 directly. We have an email address not-for-profit at  
13 finance dot NYC dot GOV and if they email us we will  
14 walk them through whatever it is they need to do. If  
15 they give us a phone number we will contact them.  
16 They can of course also contact us through 3-1-1 and  
17 that will be sent to us so that we can follow-up. We  
18 have the applications available on our website and  
19 all the new applications tell them exactly what they  
20 need to do to fill out the instructions, the bylaws  
21 that they need to submit and everything else. But  
22 since you did mention people are watching can I just  
23 quickly plug... [cross-talk]

24 CHAIR: Absolutely.

25

1  
2 SAMARA KARASYK: Please if you're a not-  
3 for-profit and you have not renewed please renew  
4 right away. The deadline was January 5<sup>th</sup> but we still  
5 encourage you to get that application in before the  
6 final role in May. So we're coming out with the  
7 assessment role next week, not for profits that  
8 didn't renew will show their full value on the  
9 notice of property value that we mail in January.  
10 However we will work with them to try to get them  
11 back on by the time the final role is in place in  
12 May and we've done that for the past few years as  
13 well.

14 CHAIR: Great. Thank you. Council Member  
15 Rodriguez.

16 COUNCIL MEMBER RODRIGUEZ: A year ago I  
17 say that I was so proud to be part of this team  
18 where we the council, the administration, working  
19 together we will be making history. And, and no  
20 doubt that I you know I pretty sure that couple of  
21 year from now when we will not be at the council  
22 anymore or when your no be commission or party.. we  
23 can say that we had the best administration, the  
24 most progress administration even though some people  
25 tried to divide us but they would not do it. We'll

1  
2 become stronger than ever. So one of the area where  
3 I, where we, I hope that we can work together as a  
4 team is on affordable housing. So HDFC I believe  
5 that in the previous administration we left them to  
6 fail. And in, also how there was a lack of support  
7 especially from the financial perspective on how  
8 they should be able to take care of the taxes. So  
9 what I hope that with the new approach instead we  
10 should be looking as a, a, as a... the city, as a  
11 great opportunity to keep especially working class  
12 people the opportunity to keep they own apartment.  
13 So that's my invitation. Hope that from the, you  
14 know the new perspective with the new administration  
15 should be to do whatever we can. If there's any plan  
16 to keep those... if we feel that those non-for-profit  
17 they don't have they, a structure in place and they  
18 are failing to pay the taxes how are we supporting,  
19 how are you supporting for an HPD or any other  
20 agency those group of tenants who live in many of  
21 those building that they don't have the experience  
22 on taking care of the taxes. So what are you doing  
23 to supporting?

24

25



1  
2 CHRIS ALLRED: So the Division of Asset  
3 Management was created about five years specifically  
4 to get it... [cross-talk]

5 COUNCIL MEMBER RODRIGUEZ: And, and sorry...  
6 And, and before you get into that. The question,  
7 what I don't want to hear is the same thing that I  
8 heard two years ago. Because two years ago we let  
9 that particular group of tenants who own this  
10 building to fail. I believe that there was a plan to  
11 let those people fail so that we can transfer those  
12 building to private lenders. So what are we doing  
13 different with the new administration than when we  
14 were doing a year ago?

15 CHRIS ALLRED: Whenever a property is at  
16 risk the Division of Asset Management Attempts to  
17 engage with the owner or owners and look at  
18 solutions to preserve the affordable, preserve that  
19 affordable housing stock and you know that, there  
20 are different ways we, we'll approach that depending  
21 if it's rental or co-op. It may be that we'll look  
22 to sign a regulatory agreement that might include  
23 some tax a bans, changing the terms of the  
24 regulatory agreement, additional subsidy, additional  
25 tax benefits, you know we'll bring whatever tools we

1  
2 can to try to preserve the, the housing, and that's  
3 our goal.

4 COUNCIL MEMBER RODRIGUEZ: And what, what...  
5 [cross-talk]

6 CHRIS ALLRED: And, and the, I'm sorry  
7 the, one of the advantages of the tax lien sale  
8 process is that it actually helps us engage in those  
9 conversations with those owners and allow us to then  
10 collaboratively look for solutions.

11 [off mic comments]

12 CHRIS ALLRED: So it, it's you know  
13 different for different buildings but it, it, we  
14 might look to get a new tax benefit. There might be,  
15 it might be part of a larger workout where there's  
16 a, private debt comes in along with city subsidy and  
17 there's rehab at the same time that, that money is  
18 brought in to address the, the arrears, like I said  
19 there could be uh tax a bans for co-ops. There,  
20 there are a variety of tools but from our standpoint  
21 the important thing is that we're engaging then in  
22 conversations. Very often municipal, municipal debt  
23 is indicative of larger problems and so by starting  
24 the conversation about municipal debt we can often  
25 get to the bigger underlying issues.

1  
2 [off mic comments]

3 CHRIS ALLRED: Okay so if I can, if we can  
4 get back to you with a, a more detailed explanation  
5 be happy to do that.

6 [off mic comments]

7 CHRIS ALLRED: HPD maintains as close to  
8 the definitive list as there is for the number of  
9 HDFCs in the city. And we believe there are 3,225  
10 HDFC owned properties in New York City. Yeah, 3,225.

11 [off mic comments]

12 CHRIS ALLRED: I don't have the break out  
13 of co-ops right at my fingers but I'm happy to get  
14 back to you with the, the number that specifically  
15 are co-ops.

16 [off mic comments]

17 CHRIS ALLRED: Absolutely.

18 CHAIR: Thank you Council Member  
19 Rodriguez. HDFCs are hot today. But there really are  
20 been important core value to the city and, and  
21 housing preservations. We have, we've been joined by  
22 Council Member Gibson and two questions before we  
23 wrap up. One of them is what happens if the city  
24 discovers a lien was mistakenly sold and can it be  
25 bought back and pays for it, for the mistake? And

1  
2 in, I guess equally also with the water bills if we  
3 find errors what happens with those?

4 JEFFREY SHEAR: The city reimburses the  
5 trust for defected liens and the liability is placed  
6 back on finances books as it was prior to the lien  
7 sale.

8 CHAIR: So there's no portion that remains  
9 at, with the property owner in the lien sale?

10 SAMARA KARASYK: There are no charges  
11 associated with the lien sale that, that they have  
12 but they still have the tax liability.

13 CHAIR: Right, okay. And is that the same  
14 for water?

15 EMILY LLOYD: Yes.

16 CHAIR: And what happens in cases where a  
17 class one property's provided a qualifying property  
18 tax exemption after the lien has been sold? And  
19 would the lien be deemed defective?

20 JEFFREY SHEAR: The lien is defected  
21 entirely if it is determined that the property  
22 qualifies for an eligible personal exemption after  
23 the lien sale. We review up to 90 days after the  
24 lien sale.

1  
2 CHAIR: And after that? Do we review again  
3 at any point or is it 90, only 90 days?

4 SAMARA KARASYK: Well we review 90 days  
5 for the ones that sort of started the application  
6 process during the lien sale because sometimes it  
7 takes past the date of a lien sale for those, those  
8 to be done. But I mean we look at every case on a  
9 case by case basis if it turns out that someone did  
10 qualify for the personal exemption. We'll, we'll  
11 look at that and you know we, we would also deem it  
12 defective... [cross-talk]

13 CHAIR: Because the personal exemption...  
14 [cross-talk]

15 SAMARA KARASYK: ...turns out they had...  
16 [cross-talk]

17 CHAIR: ...you can get up to the day of the,  
18 date of the sale or the day before the sale?

19 SAMARA KARASYK: They have to have gotten  
20 their application in by the date of the sale but  
21 like if say they get their application in the day  
22 before the sale and then they have to give us some  
23 remaining documentation, like we'll still look at  
24 that, and that period afterwards. [cross-talk]

1  
2 CHAIR: And if they get you the, if you,  
3 if they apply and you find that the exemption  
4 existed after the actual sale does that no longer  
5 qualify for the exemption.

6 SAMARA KARASYK: I think it would depend  
7 like when they got in touch with us, how far, you  
8 know how far along they went with the process..  
9 [cross-talk]

10 CHAIR: So they have to actively be  
11 engaging with you at some point before the sale?

12 SAMARA KARASYK: I believe so. I, I mean I  
13 can get back to you on the details.

14 CHAIR: Can you?

15 SAMARA KARASYK: Yeah.

16 CHAIR: Please.

17 SAMARA KARASYK: I mean something that you  
18 know unfortunately we face sometimes is people will  
19 sort of fill out the checklist every year. My  
20 outreach staff actually are like oh yeah I know that  
21 person. Every year they fill out the check list and  
22 it turns out they don't, they don't actually qualify  
23 because they know that that will help them.. [cross-  
24 talk] So we try and strike a balance between making  
25 sure that it's really qualified people for those

1  
2 exemptions that we're going to pull out. And so we,  
3 we do try, have to check them all before we could do  
4 that.

5 CHAIR: Okay DOF sends out four notices,  
6 one at 90, 60, 30, and 10 days before the lien sale.  
7 Have you considered sending out notices at 120 days  
8 before the sale to allow owners additional time to  
9 save funds and pay for their debt? I know DEP does  
10 so it might be proven to work, I'm just saying.

11 SAMARA KARASYK: Yeah, well we do the  
12 October notice which we sent out this year as well  
13 and we have two different October notices, one we  
14 send to anyone that owes more than 1,000 dollars in  
15 taxes they're less likely to qualify for the lien  
16 sale but there's a risk that they could if they owed  
17 more than a thousand in taxes. And then there's  
18 another one for people that we think are much more  
19 likely to qualify for the lien sale that's a little  
20 more strongly worded. So we do do that October  
21 notice.

22 CHAIR: In October.

23 SAMARA KARASYK: Yeah.

24 CHAIR: So that puts... I'm sorry, I'm  
25 calculating my days.

1  
2 SAMARA KARASYK: So let's see February,  
3 February's the 90 day so that would be...

4 CHAIR: Okay.

5 SAMARA KARASYK: November. And then we  
6 also have lien sale information in the notice of  
7 property value that's general information about the  
8 lien sale but explains how it works and how you  
9 would end up in a lien sale.

10 CHAIR: Okay very good. Thank you very  
11 much for coming to testify. Again I apologize for  
12 our late start. It's always a pleasure working with  
13 you guys. This process has been incredibly  
14 educational but also we've bale to get a lot of what  
15 we needed in the council from the council's  
16 perspective into this lien sale. And I'm looking  
17 forward to voting this out. Thank you very much for  
18 your testimony.

19 [combined thank-you's]

20 Chair: And we'll call up our next panel  
21 and happy new year. If we could just make sure that  
22 someone stays from the administration to hear the  
23 testimony I'd appreciate it.

24

25



1  
2 UNKNOWN FEMALE: We will now hear from  
3 Harvey Epstein [sp?], Justin Haynes, Caroline Nagy,  
4 and Moses Gates.

5 JUSTIN HAYNES: Is it on? Okay hi. My  
6 name's Justin Haynes. I'm the Director of  
7 Foreclosure Prevention at the Legal Services NYC  
8 Bronx office. And I'm delivering testimony on behalf  
9 of our foreclosure prevention practice across the  
10 city mainly in the four outer boroughs. And I do  
11 have to say I do feel a little bit like I'm in an  
12 alternate universe because the foreclosure  
13 prevention work we do is often court based and so  
14 we're seeing people, home owners who are facing the,  
15 not only facing the lien sale, you know they come to  
16 us with a mortgage problem but they also have water  
17 and tax problem so we try and assist them in getting  
18 affordable, help them with tax exemptions and help  
19 them with payment plans to avoid the lien sale. But  
20 we also see people you know at all stages of the tax  
21 lien foreclosure and they have a very different  
22 experience then what you know was sort of described  
23 today so I, I want to share I think most importantly  
24 those client stories with you today. And just one  
25 other note that's not in my testimony. But really

1  
2 this is you know a time of , you know it's been an  
3 extremely difficult time for New Yorkers, for home  
4 owners who have lost their jobs, who had subprime  
5 mortgages that exploded and really this is add, the  
6 tax lien sale has added an additional stressor  
7 during this really difficult you know mortgage  
8 foreclosure period. By putting people who may not,  
9 it contributes to making their mortgages sometimes  
10 unaffordable because a tax lien, I mean a mortgage  
11 servicer wants to maintain priority position for  
12 their mortgage. And so a lot of times they will pay  
13 the taxes or the water bill. And if it's  
14 significant, if it's 24, 24 thousand dollars then  
15 under the real estate settlement procedures act  
16 they're really entitled to recover that expense that  
17 they put out on behalf of the home owner in a 12  
18 month period. So that can add several thousand  
19 dollars if they paid of a large lien to the, the  
20 mortgage which then drives homeowners into mortgage  
21 foreclosure as well. But you're also adding a class  
22 people who didn't have a mortgage who are now facing  
23 foreclosure specifically because of this. And I  
24 understand there was a great amount of money  
25 outstanding to the city but it has to be balanced

1  
2 against sort of the experience of home owners, long  
3 time home owners, especially the ones without  
4 mortgages who have paid off their mortgages and were  
5 putting them at risk of losing their homes. I just  
6 want to share, share some of these stories. We're,  
7 we're very, you know this is my third time  
8 testifying about the tax lien sale. There, it's  
9 great to see new protections going into you know  
10 increased notice, increased ability to have outreach  
11 events in council members districts and we support  
12 all those things and, and, or we see that they will  
13 benefit our clients. And very importantly we're very  
14 excited about this task force and I would encourage  
15 the council to consider bringing in housing  
16 counsellors and legal service providers who deal  
17 with this on the daily basis because we have a lot  
18 of direct experience with the tax lien sale and its  
19 affects. So let me share some client stories. One  
20 point I want to make is that there, it has, there  
21 has to be a better way to remove defective tax liens  
22 from, from foreclosure and from the lien sale that  
23 has to be improved. And also the code itself both  
24 you know this is what chapter 11 sections three and  
25 four governing tax lien sales and tax lien

1  
2 foreclosures. It's written in an extremely outdated  
3 way. It, it was written in, in a way when the you  
4 know DOF maintained these In Rem cards with  
5 information about the homeowner, you know the  
6 homeowner who should be notified. It also was  
7 written to reflect when the city conducted the  
8 foreclosures themselves. And they haven't really up,  
9 been updated to reflect that these are third party  
10 sales to tax lien trusts. And really there needs to  
11 be comprehensive look at both chapter three and four  
12 and all the provisions related to tax lien  
13 foreclosures and make them reflect today's reality  
14 where you know DOF doesn't keep little you know  
15 cards in, in a box anymore. It's computerized and  
16 there's these third, third party sales. So let me  
17 tell you about Edith. She came in October 2012 to  
18 our court based foreclosure prevention clinic in the  
19 Bronx. And her case was unusual in that she believed  
20 that she was up to date on her property taxes at  
21 Shore Haven Condominiums. And even though she was,  
22 even though she was current she was being sued in a  
23 tax lien foreclosure. And she tried to tell the  
24 trust lien attorneys that this was the case, that  
25 she's paid up on her taxes but they disregarded her

1  
2 and scheduled her foreclosure auction anyway. And it  
3 was a, from when I met her it was going to occur in  
4 two weeks from then. Ultimately our investigation  
5 revealed that Edith was correct, she had paid her  
6 taxes on her, on her condo. We discovered a huge  
7 error that Department of Finance had made. When the  
8 tax lots were designated, so when they built Shore  
9 Haven, they, they had initial plan, only half of it  
10 was built and they assigned all the tax lots for the  
11 parts that were built and the parts that had not yet  
12 been built. But you know as development goes on the  
13 plans for what actually got built changed. And they,  
14 they reduced the number of condos which then  
15 affected the tax lot IDs. So what then happened was  
16 there was a condo amendment that re-designated for  
17 the block that Edith lived on 12 different condos  
18 got new tax lot IDs. The problem is DOF never  
19 updated their records to reflect these new tax lot  
20 IDs. In fact they maintained the new tax lot ID  
21 numbers and the old tax lot ID numbers. So she had  
22 paid her taxes on her correct tax lot ID. And the  
23 old one, number that should have been deleted never  
24 got deleted. And what happened is eventually those  
25 DOF charges became tax liens that got sold in a tax

1  
2 lien sale that then became foreclosures. So she was  
3 being sued in foreclosure and two weeks away from a  
4 foreclosure sale of her property for a tax lot that  
5 didn't exist. So we got the proof of this together.  
6 We sent it to the attorney, the attorney for the tax  
7 lien agreed to stop the sale but he wouldn't, he  
8 wouldn't dismiss the foreclosure case. He said that  
9 the tax lien trust and their servicers wanted to do  
10 an investigation. And for over two year, well for a  
11 year and a half I waited for the results of that  
12 investigation and it never came. Then come into,  
13 someone else come into my clinic, Jessica, with the  
14 same exact problem. I do the research, she lives on  
15 the same exact block. And you couldn't believe how  
16 frustrated I was that I identified the serious  
17 defect to DOF and to the tax lien trust and it not  
18 only affected these two people that walked into my  
19 office but they were, when Edith came in there were  
20 two other pending foreclosures. And by the time  
21 Jessica came into my office there were five  
22 foreclosures pending on lots that should not have  
23 existed anymore. So this time I got mad, I did the  
24 motion to dismiss, I asked for attorney's fees and  
25 sanctions against them because I brought this to

1  
2 their attention and they were supposedly  
3 investigating it. Eventually this time one of the  
4 servicers, MTAG, agreed with my analysis about, I  
5 showed them the condo amendment that repeatedly over  
6 and over showed, showed that these tax lot should  
7 have been changed. And they agreed with me. But then  
8 they had to get DOF signoff on getting the tax lot,  
9 I mean the lien, the defective liens pulled. And  
10 that took another seven months to get that. So for,  
11 for Edith she, for over two years she thought that  
12 she was going to lose her house to a defective, you  
13 know for, and she'd always paid her taxes, Jessica  
14 always paid her taxes, and yet they were facing  
15 foreclosure, and they were never compensated for  
16 that kind of stress that they had to live under for  
17 several years while DOF and the tax lien trust  
18 really tried to research this issue, on something  
19 that should never have happened in the first place.  
20 And some of the arguments that the tax lien trust  
21 used were that they tried to say that parts of the  
22 code that I was citing for the ability for the court  
23 to review whether these were valid tax liens or not  
24 they tried to, or they argued where that was only  
25 applicable when the city conducted the foreclosure

1  
2 sales themselves. So this, the fact that you know...  
3 And most cases we're assuming the tax lien trust is  
4 stepping into the shoes of the, the city into the  
5 code in reality this, you know this changeover  
6 between the city conducting the foreclosures and the  
7 trust doing the foreclosures is you know, is being  
8 used against homeowners. And so really I encourage  
9 the council to look at the code and get it up to  
10 date. And they also tried to say that this, she, you  
11 know Jessica should have engaged in every  
12 administrative exhaustion, exhaust all  
13 administrative remedies possible like doing an  
14 article 78 or a tax... case which have very short  
15 deadlines and you know clearly these were defective  
16 liens.

17 CHAIR: I'm, I'm sorry to interrupt..

18 JUSTIN HAYNES: Yeah.

19 CHAIR: ...just for clarity purposes..

20 JUSTIN HAYNES: Sure.

21 CHAIR: ...can you give me a year, the, what  
22 point in, or what year were these foreclosure cases  
23 that you were dealing with happening?  
24  
25



1  
2 JUSTIN HAYNES: They were, she came in, in  
3 2012. I think, I think the index number, I can get  
4 back to you but I think...

5 CHAIR: Yeah.

6 JUSTIN HAYNES: I mean I have the index  
7 numbers at, at home.

8 CHAIR: I just want to compare because you  
9 know this administration says things aren't  
10 happening and in the prior administration... [cross-  
11 talk]

12 JUSTIN HAYNES: This was definitely in  
13 2012. And what frustrated me is that Jessica came in  
14 in 2013 and although in that case was a 2013 index  
15 number based on these defective liens.

16 CHAIR: Right.

17 JUSTIN HAYNES: And the other weird thing  
18 is that they, these old lot numbers, I think DOF  
19 didn't know what to do with them and so they were  
20 being assessed at a different building class that  
21 was much much higher like the rates of the tax that  
22 were being assessed were astronomical. They were  
23 like... I think they were treating it like a surveyor  
24 probably went out there and said I don't know what  
25 this tax lot is, let me count the whole building or

1 something like that. So... but yeah the, the,  
2 definitely in 2013 the second foreclosure, set of  
3 foreclosures were started. I just want to point out  
4 you know as I stated that this is adding to the  
5 foreclosure crisis by bringing homes into  
6 foreclosure that don't have mortgages. Augustine  
7 came to our clinic on a Thursday with his  
8 foreclosure scheduled the following Monday. He had  
9 grown up in this home which he inherited from his  
10 mom in 1991. It's a two family home, he rented the  
11 other unit out to a senior citizen couple on social  
12 security who only paid him 600 dollars a month and,  
13 which is an important reminder that homes needlessly  
14 lost a foreclosure also represent the loss of  
15 affordable rental housing to New York City low on  
16 moderate income neighborhoods. Augustine had no  
17 mortgage and was up to date on his property taxes  
18 but he was behind on his water charges. He had  
19 fallen behind when he lost his job at a non-profit  
20 and his elderly tenants experienced health problems  
21 and had difficulty paying the rent. The water lien  
22 was originally 27 thousand but by the end of the  
23 foreclosure process had grown to 45 thousand. We  
24 helped Augustine file an order to show cause to stop  
25

1  
2 the sale which gave us enough time to apply for the  
3 New York State MAP program. Once upon a time there  
4 were two different loan programs that we could use  
5 to bail homeowners out when they could show like an  
6 ability to go forward. Now keep in mind the ability  
7 to get a mortgage in the last you know six years has  
8 been extremely difficult. So even people who didn't  
9 have a mortgage who might want to get a mortgage to  
10 pay off their tax lien the market was just so choked  
11 and you know I, I can show you lots of reports about  
12 how homeowners in minority neighborhoods in New York  
13 City are being denied conventional loans at higher  
14 than normal rates. So it's just been really hard for  
15 homeowners to try and bail themselves out even if  
16 they didn't have a mortgage and wanted to get a  
17 mortgage to then pay off these liens. But there were  
18 two rescue funds. One was the GAP loan fund where  
19 you could get up to 25 thousand dollars. And then  
20 there's the New York State MAP program which  
21 Caroline will talk more about because it's a project  
22 of the, the attorney general. You can get up to 40  
23 thousand and we are, one available use is to use it  
24 to pay off a tax lien foreclosure. The thing that  
25 you should be aware of, it's a finite, it's

1  
2 definitely a finite resource and it's meant for the  
3 entire state. So the, to the extent that New York  
4 City homeowners are going to benefit from it it's  
5 going to be very limited.

6 CHAIR: So I'm going to ask... in your  
7 testimony, I know you have many of these points in  
8 your testimony we just... [cross-talk]

9 JUSTIN HAYES: Yeah.

10 CHAIR: ...have to let other panelists to  
11 speak and I need to get out of this room...

12 JUSTIN HAYES: Okay.

13 CHAIR: ...sooner rather than later.

14 JUSTIN HAYES: Let me just make a couple  
15 quick quick...

16 CHAIR: Quick.

17 JUSTIN HAYES: I'll, I'll whip it up.

18 CHAIR: Okay whip it up.

19 JUSTIN HAYES: Okay. There's another issue  
20 we've seen a pattern with homeowners who own two  
21 lots where either the mortgage company or the  
22 homeowner has been paying the taxes on one lot but  
23 they own the adjacent lot which happens to be their  
24 driveway, their yard, what have you. And sometimes  
25 the DOF address for that, that, they're not getting

1 the notices because the address is defective.  
2  
3 Sometimes they're not getting the notice, they're  
4 just not aware of it and they mortgage company's not  
5 paying it and a lot of people are, are... so I think  
6 that could be improved. I would also, you know we've  
7 had homeowners served in foreclosure with sloppy  
8 personal service. The interest rates, the costs and  
9 fees are really excessive. We had one case where  
10 someone had a lien for 104, originally started out  
11 at 31 thousand but it's now 104 thousand and that  
12 includes 66 thousand dollars in interest. We find  
13 that DOF line staff often misrepresent what payment  
14 plans are available to people and they don't, they  
15 tell them they do have to make a down payment and  
16 that becomes a barrier. And just one last note. I  
17 would encourage any future hearings about the tax  
18 lien sale that you invite the, the two major  
19 services MTAG and Tower to talk about their  
20 experiences once they own the lot, the, the, the  
21 liens. Because one thing that's really significant  
22 is their payment plans after the lien is sold and  
23 they have it are extremely expensive. They do  
24 require large down payments and they only allow  
25 repayment over one to three years. And most

1  
2 homeowners find that unaffordable. And I find it  
3 unbelievable that only 15 of the liens ever went  
4 through the lien sale have resulted in foreclosure  
5 because when we have a case that's a, a a tax lien  
6 foreclosure there's very few remedies for helping  
7 that person. So thank you for the ability to testify  
8 today.

9 CAROLINE NAGY: Hello. My name is Caroline  
10 Nagy. I'm the Policy Manager at the Center for New  
11 York City Neighborhoods and thank you for inviting  
12 me to testify today. So at the Center for New York  
13 City Neighborhoods we work to protect and preserve  
14 affordable home ownership in New York City and we  
15 work closely with Justin's organizations like Legal  
16 Services of New York City among our many other  
17 network partners that provide community based  
18 foreclosure prevention services throughout the five  
19 boroughs in New York City. And I would like to  
20 basically co-sign what, what, what was, what has  
21 already been said because our testimony really  
22 follows along the same lines and I don't want to  
23 take up too much time. But basically we see the tax  
24 lien foreclosures, tax lien, the sale of tax liens  
25 for owner occupied class one properties as a major

1  
2 threat to, to our admission of promoting and  
3 protecting affordable and sustainable home ownership  
4 in New York City. And I would, I'd like to give a  
5 few examples of homeowners who are network partners  
6 who've worked with. The first who we gave the name  
7 Mr. M was actually already identified in Justin's  
8 testimony. And I just wanted to comment about some  
9 particular aspects, the particular aspect of his  
10 case. He was days away from a foreclosure auction  
11 which would have left himself as well as two elderly  
12 tenants, one of who had, was suffering from cancer,  
13 homeless which would have been at a, obviously a  
14 great cost to the city and it's only because this  
15 came up in October that he was able to get the New  
16 York State Mortgage Assistance Program loan to cover  
17 the tax lien. Because up until just this autumn the  
18 Center for New York City Neighborhoods didn't offer  
19 that as a, or the program itself didn't offer that  
20 as an option. So it was extremely lucky, just a  
21 matter of timing and days before auction that this  
22 was a resource and they were actually able to save  
23 the house. And while it's great that the mortgage  
24 assistance program was there for this homeowner and  
25 his tenants it, you know it's a finite resource and

1  
2 it's a public resource. And in this case you know  
3 when you have a 27 thousand dollar lien that's now  
4 42 thousand you know the, you know which is the  
5 remainder going to a servicer you know I would  
6 question if that's you know always the best, the  
7 best way to go about saving someone's home.

8 Additionally we had Mrs. G, a 78 year old senior  
9 citizen, who also faced foreclosure due to a tax  
10 lien that was sold in 2012. And again she came to..  
11 legal services for the elderly in Queens with a,  
12 sorry with a tax lien. She had lived in her home for  
13 46 years, experienced financial hardship when a  
14 roommate moved out, and then she suffered from  
15 depression which made it very difficult for her to  
16 navigate the system which you know we said is, can  
17 be, can be quite difficult and not always as user  
18 friendly. And so she wasn't aware that there was  
19 services available to help her when she received a  
20 summons and complaint so she defaulted in answering.  
21 She was, she was able to save her house due to this  
22 last-minute assistance and entering into a payment  
23 plan. However you know her, her financial burden is  
24 going to be much higher going forward. And then  
25 finally Ms. L, a senior citizen, came to another one



1  
2 of our network partners, MFY, two days before an  
3 auction sale on her home as a result of a tax lien  
4 foreclosure. And this was a case where the, the  
5 woman, the senior citizen believed that she had  
6 actually paid off her lien. That's what she had, she  
7 had reason to believe that. And unfortunately her  
8 payment was a thousand dollars shy of what was  
9 actually due. And so that, that leded, that, she  
10 was never told that she owed them an extra thousand  
11 and so the foreclosure was proceeded against her.  
12 And ultimately MFY was able to step in. But again I  
13 mean these three cases these people would have lost  
14 their homes if it weren't for the last minute  
15 heroics of their legal services attorneys. And  
16 there's likely you know more cases where people  
17 don't receive this last minute help that you know  
18 were, they would end up losing the home. So with  
19 regards to the proposed legislation there're some  
20 things that we're very happy to see. The exclusion  
21 of Sandy damaged homes is very, we think that's,  
22 that's great. I mean home owners impacted by Sandy  
23 have faced tremendous hardships and there's, you  
24 know people both at neighbors and individuals as  
25 well as the city, state, and federal government are

1  
2 investing huge amounts of money and bringing  
3 everyone back. And so the sale of a tax lien would  
4 be a step in the opposite direction. Additionally  
5 the quarterly reporting requirements I think would  
6 give us a lot better information about what's  
7 happening to the home owners. And then finally the  
8 temporary task force to address these issues, we see  
9 that as a very positive step. But again we'd like to  
10 see some representatives of community based  
11 foreclosure prevention organizations to participate  
12 on the task force because we believe they have a, a  
13 perspective that comes from working every day with  
14 these home owners that would add greatly to the  
15 process. And finally for longer term solutions we  
16 still would like to see an exemption ultimately of  
17 owner occupied class one properties from the lien  
18 sale. And realizing that that might not be possible  
19 we, another proposal that we have is to expand the  
20 DEP water assistance program to... right now covers  
21 homeowners who are in foreclosure. But since not all  
22 homeowners have mortgages when they run into these  
23 issues we'd like to see more exemptions maybe for  
24 low income home owners and also maybe to see it as a  
25 model for expanding to tax liens as well as water

1  
2 liens. And then finally our last recommendation as I  
3 said was to have some community representation on  
4 the task force. So thank you very much.

5 Harvey Epstein: Hello, my name is Harvey  
6 Epstein from, I'm the Associate Director at the  
7 Urban Justice Center. Thank you Chair Ferreras for  
8 your leadership and Council Member Gibson for  
9 sticking it out with us. So our colleagues focused  
10 on the homeowner foreclosures and we're going to  
11 focus on the multi-family foreclosures, really  
12 focusing on the HDFC rental and, and... market is, as  
13 HPD said earlier is a little over a 33 hundred  
14 units, the buildings we think about 85 thousand  
15 units. 35 thousand are co-ops. 50 thousand are  
16 rentals. And so in that market we really want to  
17 focus on the, the co-ops we, and the rentals who are  
18 faced foreclosure. As Chairwoman you spoke... about  
19 this issue with HPD. We're really concerned about  
20 these buildings going through the foreclosure  
21 process. These are buildings that have substantial  
22 government investment, or substantial periods of  
23 times buildings went through a process where the  
24 government rehabbed these units and then became  
25 either a limited equity co-ops or non-profit

1 rentals. The idea that these buildings who go  
2 through tax liens sales and then potentially lose...  
3 because there's no long a regulatory agreement in  
4 effect is problematic. As we all know the rent  
5 stabilization laws are truly flawed and units come  
6 out of rent stabilization. You know we see 10,000  
7 units 12,000 units every year coming out of rent  
8 stabilization system and there's no protections in  
9 effect here to, to prevent that from happening. All  
10 our goal is to preserve affordable housing and our,  
11 our hope is that we can remove the HDFC's rentals  
12 and co-ops from the tax lien sales or put additional  
13 protections in effect that they severely restrict  
14 them. One, if there's regulatory agreement there's  
15 only protections during the term of the regulatory  
16 agreement. When there isn't a regulatory agreement  
17 there's really no protections at all when such units  
18 become vacant. There might be protections for the  
19 tenants in occupancy but once those units become  
20 vacant owners like any owner can then do gut rehabs  
21 and put those units up to market, you know they can  
22 do 140, 160 improvements and those units become  
23 unaffordable to New Yorkers. So we'd like to be able  
24 to see that not happen. So our goal is to, one is to  
25

1  
2 once focus on trying to remove them from tax liens  
3 and if we can't get them removed from tax lien sales  
4 we'd like to see additional protections on the..  
5 rental market. And I support our colleague's request  
6 that advocates be added to the task force because I  
7 think long term experiences that we have and you  
8 have really can go hand in hand to think about what  
9 the best issues and the needs for the New York City  
10 around tax lien sales. So thank you very much.

11 MOSES GATES: Thank you. I will also  
12 attempt to keep HDFCs hot but just for a little  
13 while longer. My name's Moses Gates. I'm from the  
14 Association for Neighborhood Housing Development.  
15 I'd like to echo my colleague's concerns especially  
16 on the community representation or other stakeholder  
17 representation on the taskforce. I mean not to, not  
18 to get too beyond it but I would even say you know  
19 representation from the financial community might be  
20 valuable on the task force and that otherwise it  
21 should go a bit beyond government. On the HDFC sales  
22 I have to really disagree with HPD's representation  
23 of the issue in a few ways. The first is that it's  
24 not the same negotiating with the entity that owns  
25 the asset before and after the sale. All of the

1  
2 HDFCs that are currently under lien sale are all  
3 owned by mission driven not-for-profit  
4 organizations. After the foreclosure they're owned  
5 by a profit motivated financial institution. That's  
6 a very different negotiation and a real threat to  
7 affordability. Even if you have some form of  
8 protection through rent stabilization or even  
9 through a regulatory agreement it's a very different  
10 negotiation. And I would point out that there's  
11 nothing in the actual proposed legislation that  
12 mandates any kind of protection for a regulatory  
13 agreement or even mandates rent stabilization in the  
14 actual text of the legislation. And you know we, we  
15 have worked with HPD Asset Management very closely.  
16 We have a lot of respect for them. But when you're  
17 talking about legislation that's going to be.. you  
18 know we feel like we really have to have some real  
19 legal protections in there. And if, even if you have  
20 a regulatory agreement a profit motivated  
21 institution is thinking one of two things, either  
22 they're paying a decent hunk of change for the lien  
23 and their idea is not to keep it affordable, you  
24 know their idea is to somehow work around the  
25 regulations or do something and work the asset for,

1  
2 you know for their return on investment, or if there  
3 is really tight regulatory agreements and  
4 affordability restrictions then that lien is  
5 basically worthless and the financial institution I  
6 paying a very very very low amount and then you get  
7 really into questions, well is this in the city's  
8 financial interest to even sell the lien on the  
9 building. HPD has another option for their shtick.  
10 They can take these buildings through the third  
11 party transfer process, transfer them to responsible  
12 owners that are known by HPD that are community  
13 minded to stabilize the affordability restrictions  
14 and that's really the process that we would like to  
15 see enshrined. Thank you.

16 JUSTIN HAYES: Could I just add one more  
17 point. Just, just on the Asset Management Team at  
18 HPD they have one staff member. So we have 11  
19 hundred HDFC co-ops alone. So.. buildings that'll  
20 take 10 percent of them... some kind of financial  
21 distress there's only one staff member who can even  
22 facilitates these conversations. And I, Council  
23 Member Rodriguez raised.. question. What are the new  
24 programs that are available that HPD has for them  
25 because we haven't seen them? And if we really want

1  
2 to stabilize these units, these 35 thousand units  
3 which could be getting to our 200 thousand number  
4 pretty quickly if we did something, this is where we  
5 need to invest resources to, to preserve these  
6 units.

7 CHAIR: Thank you very much. And we have  
8 someone here, Alex is here from DOF so I would  
9 advise you all to take Alex's card. But also Alex  
10 has been here taking notes to get back to the  
11 commissioner. I'm going to be speaking to the DOF  
12 commissioner right after this hearing actually and  
13 your suggestions are something that I take very  
14 seriously and I want you to know that your point on  
15 the task force is something that we're going to try  
16 to figure out how best to do that within the  
17 structure that we've committed to because we've  
18 committed, getting the task force was like a huge  
19 thing as you can imagine. But your voices will never  
20 not be in the room. It's about how best to have your  
21 experiences included in those conversations in the  
22 task force. And HDFCs is something that's important  
23 to our city as are all other homeowners that are  
24 going through this process. I would hate to think  
25 that someone in my, in East Elmhurst or in the Bronx



1  
2 who finally managed to pay off their mortgage would  
3 lose their home to the water bill. Like you know  
4 that's not what this city is about or what the  
5 intentions of these lien sales are meant. So I don't  
6 know... you... I think you wanted, did you want to say  
7 something else?

8 JUSTIN HAYES: I just want to make one  
9 other point. In the mortgage context when someone's  
10 being sewed in foreclosure the, the court notices,  
11 or the notices that go to homeowners include the  
12 numbers of advocates in their local area. And I  
13 wonder if we should think about adjusting the, the  
14 many notices that go out to include advocacy  
15 organizations or the Center for New York City  
16 Neighborhoods which has a... [cross-talk]

17 CHAIR: I think that is a fantastic point.  
18 Everybody's feverishly writing over here.

19 JUSTIN HAYES: Okay.

20 CHAIR: Yes we will give you credit...

21 JUSTIN HAYES: Because as you see we, you  
22 know we were, we run into a lot of people very late  
23 in the game...

24 CHAIR: Yes.

1  
2 JUSTIN HAYES: ...sometimes days before  
3 they're...

4 CHAIR: But it's the same thing that  
5 happens in the council offices. No one comes to me  
6 with enough time. Everyone comes to me like I'm  
7 getting evicted tomorrow. And people usually go to  
8 organizations when the, when they no longer can  
9 handle it or what they believe they can handle  
10 themselves. I think that is a phenomenal suggestion.  
11 We're going to get right to it.

12 JUSTIN HAYES: Okay.

13 CHAIR: And again, you, please stay close  
14 and, and make sure that we communicate effectively.  
15 Thank you very much for your testimony today. We're  
16 going to call this hearing to a close.

17 [gavel]

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date January 12, 2015