

**Testimony of Cas Holloway**  
**Commissioner, New York City Department of Environmental Protection**  
**New York City Council Committees on Finance and Community Development**  
**Intro. 26 Regarding the Sale of Water Liens**  
**250 Broadway, 14th Floor**  
**(Thursday, May 6, 2010 @ 1:00PM)**

Good afternoon, Chairs Vann and Recchia and Members of the Committees. I am Cas Holloway, Commissioner of the New York City Department of Environmental Protection (DEP).

Thank you for the opportunity to testify on Intro 26, a bill that would amend Local Law 68, the water and sewer debt lien-sale authority created in 2007 through the leadership of Mayor Bloomberg, Council Speaker Quinn, and this entire body. Local Law 68 re-authorized the sale of tax-based liens and, for the first time, authorized the sale of liens based solely on delinquent water charges. As you may recall, the authority to sell liens based on water charges was immediately successful in averting a mid-year water rate increase that would have been needed because of poor collections in the first months of fiscal year 2008. Since then, this authority has continued to be a critical tool in collecting revenue from delinquent customers—revenue essential to meeting the expense and capital needs of one of the City's most important physical assets.

There are certain elements of Intro 26 that DEP can support, for example, the exemption for 2 and 3 family homes in the Enhanced STAR program that partially exempts from school property taxes the primary residences of senior citizens age 65 and older beneath a certain income threshold.

But a key provision of the bill—that multi-family homeowners would become eligible for the lien sale after 3 years, rather than the 1 year eligibility period now in effect—would dramatically lower revenue collections, and shift even more of the cost to operate, maintain, and build the water system from those who don't pay their water bills, to the vast majority of responsible New Yorkers who do.

To illustrate, if the 3-year eligibility threshold was in effect this year, it would reduce the number of lien sale-eligible accounts in Tax Class 1 from 11,553 to 1,090, and the amount of underlying lien-sale-eligible debt would drop from \$55.8 million to just \$14 million. That translates to an additional rate increase of 1.6% for everyone else, and would go a long way to restoring the status quo prior to Local Law 68, when a small, but persistent segment of New Yorkers regarded water and sewer charges as something that simply did not have to be paid.

Moreover, while the intention of this legislation is apparently to decrease the pressure that unpaid water and sewer bills can add to a homeowner facing financial difficulties, ultimately, it will have the opposite effect. Under the proposed legislation, we estimate that the average water and sewer debt of a property owner eligible for the lien sale would jump dramatically—from \$4,800 for Tax Class 1 property owners today, to nearly \$13,000. At that point, the size of the debt and the interest would be overwhelming, and extremely threatening to a property owner’s economic wellbeing. We want property owners to approach us as soon as possible to discuss their bill, make a down payment, and enter a payment agreement long before their debt approaches \$10,000, and true financial distress becomes all but inevitable.

Addressing water debt sooner rather than later does not mean that we cannot or should not help property owners in financial distress—particularly in these extremely difficult economic times. Mayor Bloomberg pledged in his State of the City Address to enact the most ambitious foreclosure prevention effort in the country, and DEP has led the way in this effort with the Water Debt Assistance Program (WDAP), that DEP reminded New Yorkers about just yesterday.

Before I describe the status of the WDAP program—which has been quite successful—I want to review some facts about DEP’s current water-lien-sale authority that are critically important.

I’m sure that you agree with the proposition that people who can afford to pay their water bills should pay. New York City has some of the highest-quality water in the nation. The infrastructure to supply, distribute, and treat it is ingenious and complex, and everyone who benefits from the system should pay their fair share.

As the members of these committees know, the bulk of the revenue generated by DEP’s lien sale comes well before any “sale” actually takes place. Whether due to quarterly billing or the old frontage billing method, New Yorkers have historically not treated water bills with the same urgency as other obligations. The lien sale authority granted in 2008 has changed that by providing a critical, timely reminder to delinquent property owners to pay their water bill. As with liens based on other City charges, most water-based liens are never sold, because property owners recognize and respond to their delinquency by paying what they owe, or entering into a payment agreement with a down payment.

The numbers bear this out. Approximately 89% of the properties that are placed on the lien sale list resolve their delinquency before a sale occurs—which means that the vast majority of property owners can pay their bill, or put down a deposit and enter into a payment agreement, once they decide to confront the problem.

In 2008 and 2009, DEP received \$185 million from customers on the 90-day lien-sale list, and another \$81.6 million in Payment Agreements. To put that in perspective, every percentage increase in

the water rate equated to \$23 million during this period, so lien sale authority saved the equivalent of an additional 7.9% of rate increases that otherwise would have been necessary during these two years.

And since the City Council granted DEP lien sale authority in 2007, the amount of delinquency associated with lien-sale-eligible properties has declined. In 2008, the average property on the 90-day list had \$6,787 of delinquent charges; in 2009, \$5,575 of delinquent charges; and this year \$4,846. This is a welcome trend that we hope continues—and would almost certainly be reversed if the lien-sale eligibility period was extended to 3 years.

Just as it is important to ensure that people who can afford to pay their water bill actually pay, we must do everything we can to help those in financial distress, or who are most vulnerable to financial difficulty when the economy takes a turn for the worse.

In crafting Local Law 68 of 2007, the Council and the Administration took pains to incorporate features that protect our most vulnerable citizens and preserve home ownership. For liens based on property taxes, the legislation excludes from sale all Tax Class 1 properties owned by senior-citizen, disabled and low-income homeowners who meet the criteria for the Senior Citizen Homeowners' Exemption (SCHE), the Disabled Homeowners' Exemption (DHE), and the New York State Personal Income Tax (PIT) circuit-breaker credit. For liens based on water and sewer charges, the legislation also excludes Tax Class 1 properties that are receiving the SCHE and DHE exemptions, or the PIT circuit-breaker credit.

As the members of this committee know, since lien sale authority was granted, the national financial crisis erupted, home values declined, and many homeowners were faced with the prospect of foreclosure. The Administration understands that with many New Yorkers struggling in these difficult financial times, we must do everything we can to help those who are under the greatest financial burden.

That's why Mayor Bloomberg and I, with the support by Council Members White, Vann and Comrie, announced the Water Debt Assistance Program (WDAP) in February of this year, a new initiative that will temporarily relieve homeowners at risk of mortgage foreclosure of past-due water and sewer debt. DEP appreciates the Council's support for this program, which we expanded to single-family homes in March.

WDAP was created to give homeowners at risk of foreclosure some breathing room by taking their properties off the lien sale list and deferring collection of unpaid water and sewer charges until the property is sold, refinanced, or the owner has the ability to pay the debt. As of May 2nd, 533 properties have been accepted into the program.

Programs like WDAP, in addition to the exemptions from the lien sale that already exist for homeowners receiving disability-related or age-related property tax exemptions, provide meaningful relief and protection for those experiencing financial hardship, or who may be particularly vulnerable to an economic downturn. And as I noted at the outset, DEP can support the additional exemption in Intro 26 for those eligible for the Enhanced Star exemption.

In addition to WDAP and the exemptions I've described, DEP will administratively remove from the lien sale any property that has been the subject of formal foreclosure filing by the mortgage-holder. That filing is referred to as a lis pendens and we are working with the Center for New York Neighborhoods and HPD to reach that population. In 2010 the lis pendens exemption led to 1300 properties being removed from the lien sale.

Renewing the current lien sale authority—with its one-year eligibility period—along with the additional exemptions proposed in Intro 26 would strike the right balance between protecting the most vulnerable, and ensuring that DEP has the tools necessary to collect from property owners who can afford to pay. I would also like to offer a suggestion that would substantially strengthen those tools, while maintaining appropriate protections for the vulnerable: extending lien sale authority to single-family homes.

Local Law 68 of 2007 exempted single-family homes from the sale of water-only liens, because we have the authority to terminate water service to delinquent single-family accounts. In 2008, concurrent with the first sale of water-only liens on multi-family homes, DEP began to enforce against seriously delinquent single-family homes by terminating water service pursuant to a long-standing authority to do so. While 98% of those single family owners who received a termination notice have paid in full or signed payment agreements, terminating service is a very labor-intensive, and inefficient means of enforcing payment of water bills. DEP must post a 15-day notice on each home, paint the sidewalk and mark out in the street the location of the connection between the water main and the delinquent homeowner's service line, a process that costs \$400 per home. The actual termination of service requires a crew to excavate the street, turn off the water, and restore the street to a safe condition, at an average cost of \$2,700 per home.

In 2009, we served 15-day notices on 3,547 single-family homes, terminated service at 65 of them. We collected \$2.75 million from this group, but we spent \$1.6 million to collect it, and tied-up the equivalent of 10 full-time field staff, who could otherwise have been performing work that would have benefited many more New Yorkers, such as repairing water mains, maintaining fire hydrants, or cleaning catch basins and sewers.

Currently, there are 8,500 single-family homes that would meet the eligibility criteria for a lien sale. If all 8,500 single-family homes that would be eligible for lien sale had their service terminated, it would take the equivalent of 24 full-time BWSO employees and cost \$3.8 million in order to collect \$18.2 million in one year, for a net revenue increase to the water system of \$14.4 million.

If the 8,500 single-family homes were instead eligible for the lien sale, we would expect to collect \$25 million with virtually no operational expense. That \$25 million is equivalent to a full point reduction of the water rate. The bottom line is that extending the lien sale authority to single family homes would eliminate the threat and substantial cost of water service termination, and significantly increase revenue collection, at substantially no cost. It is difficult to think of a more efficient way to lighten the burden on the ratepayers and increase service in the field.

This hearing is particularly timely. Tonight I will speak at the second of six public hearings on the water rate proposal that I made to the New York City Water Board on April 9. As I'm sure the committees know, DEP has proposed a 12.9% water rate increase to meet the needs of the water system for next year. I have already held meetings in each of the five boroughs and explained that. At each meeting I've held, residents who pay their water bills have asked me to use every method possible to ensure that they are not bearing the burden of paying for the water of those who are not. Every dollar we can't collect because those who can afford to pay won't, is another dollar that we'll have to make up through future rate increases.

We have already cut the expense budget by 8% for FY 2011, and we are in the midst of an intensive review of our capital program in an effort to reduce costs and make the rate as low as possible for next year. But every dollar we can't collect because those who can afford to pay won't, is another dollar that we'll have to make up through future rate increases. Every tool we have to avert that outcome and ensure a fair distribution of the cost of our water system is critical; and keeping the current lien sale authority intact, and extending it as I've suggested, will maintain one of the most important tools available to us.

Chairman Vann, Chairman Recchia, I want to thank you for the opportunity to testify today, and I'll gladly answer any questions you may have. Thank you.



**BROWNSTONERS OF BEDFORD-STUYVESANT, INC.**

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Thursday May 6, 2010

**Ref: Proposed Int. No. 26- A: A Local Law to amend the administrative code of the city of New York, in relation to the sale of water liens**

The Brownstoners of Bedford-Stuyvesant, Inc is a not-for-profit, 501(c) (3), volunteer service organization that is dedicated to the continued preservation, revitalization and enhancement of the community of Bedford-Stuyvesant.

Over the past thirty-two years we have been active in Bedford-Stuyvesant by promoting literacy through our multi-year Reading Awareness initiative which includes the distribution of more than 10,000 reading pledge cards to adults; our Open School Welcome Project, which posts teams of volunteers at information tables. We host these tables in area primary public schools for community outreach. We have been conducting non-partisan voter registration drives since our inception, and we are humbled by the response from men and women who felt disenfranchised for any number of reasons. This year, we will be hosting our thirty-second annual house tour which was designed to stem the tide of flight by middle-class families. Proceeds from the past thirty-one house tours have funded **over \$100,000** to the Bernard McDonald/George Glee, Jr. Memorial Scholarship Fund. Both men were founding members of the organization. More than fifty scholarships have been awarded to Boys and Girls High School college-bound graduates. These graduating students attend historically black colleges or universities. The scholarship is not a one-time payment. The students receive this scholarship throughout their undergraduate studies provided they maintain a required GPA. We also use the house tour proceeds to award the Joan Maynard Scholarship to graduates of Brooklyn Academy High School. The college-bound graduates receive a one time award.

Perhaps the most compelling of our initiatives is the Lien Sale Outreach Project, which was started over eight years ago, at the request of then Councilmember Annette M. Robinson, who expressed great concerns about the high numbers of residents who were in danger of losing their homes due to tax arrears. She had already established an event which is now known as HELP NIGHT. HELP NIGHT involves bringing representatives from the Department of Finance to a central location in the community so that residents can pay arrears, make installment arrangements, or check their status. However, not many homeowners were taking advantage of this incredible resource. We put our heads together, and the Lien Sale Outreach Project was born. The project is a simple, but powerful grass-roots effort that takes teams of Brownstoners to the door of every homeowner on the lien list within Community District 3. When Councilmember Vann took office, he continued to support the project, and he has been unwavering in making certain that all elements are in place for an effective initiative.

In past years, the lien sale numbers have ranged between 1,200 and 1,900 homes. Members of the Brownstoners undertake everything from dividing the huge lien list into block-size parcels to assembling the thousands of copies that go into the packets for the homeowners. Through the years, these neighbor-to-neighbor visits have resulted in saving hundreds of homes that would otherwise have gone into the actual lien sale process. The annual help nights routinely bring out over one hundred residents, and this turn-out is the direct result of the door-to-door outreach. One must actually witness the relieved faces and words of thanks to understand the impact of this endeavor.

Five years ago, Councilmember Vann established the Know the Facts Collective in order to provide homeowners with local technical assistance from community development agencies that include the Bridge Street Development Corporation, Neighborhood Housing Services of Bedford-Stuyvesant, Bedford-Stuyvesant Restoration Corporation, Northeast Brooklyn Housing Services, and Community Board 3.

The Brownstoners neighbor to neighbor outreach and partnership with the Know the Facts Collective was an invaluable service to the Bedford-Stuyvesant community. Together, we were able to slowly reduce the numbers on the tax lien list. Then, along came the 2007 legislation that established delinquent water and sewer bills as a benchmark for liens. We all know what happened as a result.

In the past **three** years, we found ourselves not only right back where we started, with so many of our neighbors in danger of losing their property, but we are in even more dire straits. The water lien has been particularly devastating to seniors who own their homes free and clear, and to those of the next generations who have inherited property with no outstanding mortgages. They pay their property taxes, but still are not familiar with the water tax and lien process. Our experiences also document the large number of owners who no longer live in their homes, and who may not be aware of this new situation.

Bedford-Stuyvesant has one of the largest homeownership rates in the City. We are justly proud of the men and women, who, from one generation to the next, have maintained family and community ties that are rooted in the tradition of owning a home. That rich history dates back to the men and women of African descent who helped to build this great city, and who settled in communities such as Weeksville and became proud citizens. Families have scrimped and saved to make certain that mortgages and taxes were paid so that a precious legacy could continue. However, the harsh economic down-turn has left residents in communities of color such as Bedford-Stuyvesant, in serious peril, and the 2007 bill which spawned the water lien added yet another threat to people who were already struggling.

The passage of Int. 26 would provide much-needed relief to our neighbors. During our door-to-door outreach, we found that many of our senior and disabled residents did not know that they could qualify for exemptions, and the approach outlined in the legislation would put more of the onus on the Departments of Finance and Environmental Protection to establish eligibility. Seniors who are owners of Class I properties who are enrolled in the Enhanced Star Program would be able to take advantage of the higher income ceiling. The three year benchmark for inclusion in the lien sale would provide time for additional notification to homeowners, along with the opportunity for homeowners to become more familiar with the process.

The reforms stipulated in Int. 26 are not only vital to individual homeowners in our community, but they will also protect the culture and stability of one of the jewels in New York City's crown of ethnic neighborhoods. The members of the Brownstoners stand in support of this legislation. We are grateful to Councilmember Albert Vann for his stance on voting against the 2007 legislation, and his continued efforts to support community development.

Sincerely submitted by the Executive Board of the Brownstoners of Bedford-Stuyvesant, Inc.



Signed by: Ava Barnett, President

Hearing of the New York City Council  
Committees on Community Development Finance

Public Hearing on Sale of Water Liens

Thursday May 10, 2010  
New York, New York

Testimony of Emily Storm

Good Morning. My name is Emily Storm and I am a paralegal in the Foreclosure Prevention Project at South Brooklyn Legal Services. Thank you for inviting South Brooklyn to speak today on the proposed local law to the administrative code in relation to the sale of water liens.

For more than 10 years, the Foreclosure Prevention Project has represented low- and moderate-income homeowners at risk of losing their homes because of abusive lending practices. Through litigation and advocacy we have been able to save hundreds of homeowners from foreclosure.

New York City is facing a catastrophe in its low- and middle-income communities as record numbers of families are at risk of losing their homes, many as a result of predatory subprime lending. The crisis is devastating homeowners and destabilizing neighborhoods. Exacerbating the impact of the subprime lending crisis are the many homeowners who are being threatened with foreclosure because of past due property tax and water liens.

In the past year, our office has received dozens of calls from homeowners, mostly elderly, who have been threatened with foreclosure because of a tax or water lien. Many should have been exempt from the lien sale but either did not receive proper notification or did not understand the notices sent to them. Most of the homeowners who have reached out to South Brooklyn paid off their mortgage long ago but struggle to meet their current expenses on a limited income. Others fell behind because they were trying to make unaffordable mortgage payments or thought their tax and water bills were being paid by their mortgage company. Excluding escrow payments from monthly mortgage bills was one way unscrupulous lenders misled vulnerable homeowners into believing their payments were affordable to them. These homeowners, struggling with sub-prime and high-cost loans, often discover too late that their taxes are not being paid. Once tax and water liens are sold to companies like Xspand, homeowners have a very difficult time avoiding foreclosure. Xspand routinely charges 18% interest on the debt owed and, in our experience, refuses to negotiate settlements with homeowners who are unable to pay the full amount of the debt and interest claimed to be owing.



To give you two examples from many: Mr. and Mrs. W are in danger of losing their home that they have lived in since 1966 due to an erroneously sold water lien. Both homeowners are elderly and disabled, supporting themselves and their disabled adult son solely on Social Security benefits and Mr. W's pension. Mr. W is also a retired veteran, making him eligible for several exemptions. They have managed to remain current on their mortgage and property taxes. However, given their limited income, high medical costs, and unaffordable monthly mortgage payments, they were unable to pay their water bill. About one year ago, they received a notice in the mail stating that the unpaid debt for water charges would be sold if they did not make a payment of almost \$25,000. This extremely high bill represented estimated charges, rather than their actual usage. Mr. W personally went to the D.E.P. office in Brooklyn to dispute the charges, work out a payment plan and stop the lien sale. At that time, he was told that he qualified for a senior tax exemption and not to make any payments. Their debt was erroneously sold in August 2009 and now they are in foreclosure and at risk of losing their only home. To compound their already difficult situation, they were once again erroneously placed in this year's lien sale. SBL has submitted an exemption form to remove the property from the upcoming sale, but unfortunately, we have not received confirmation that it has been processed.

In another case, the homeowner, Mr. G is an 84 year old homeowner who purchased his home in 1970 and paid off his mortgage in 1986. He suffers from severe cataracts in both eyes, and depends on rental income from the store that occupies the ground floor of his property. When the store owners defaulted on their rent payments for over a year, Mr. G simultaneously fell behind on his water and property taxes. Mr. G received no notice prior to the sale of his property tax lien last year, and only recently received a letter notifying him that he might be eligible for the property tax exemption. The current tax lien holder, Xspand, has been charging him 18% interest on the debt, which has accrued to approximately \$38,000. Xspand may soon move to foreclose on the property, leaving this elderly homeowner vulnerable to losing his home of almost 40 years.

We applaud the proposed amendments to extend to three years the minimum period of partial or full nonpayment of tax and water liens before a sale may occur; extend to 120 days the notice period required before a lien may be sold; and require the Commissioner to provide homeowners on a quarterly basis with written information on the tax lien sale process and the exemptions available. We urge the Council to provide these increased protections to homeowners at risk of tax, as well as water, lien sales and also further amend the local law to provide even greater protections for homeowners struggling with tax and water arrears.

First, the law must require that homeowners who are identified as eligible for an exemption under the law be removed from the lien sale list. This change is necessary to ensure consistent treatment of vulnerable homeowners and will simplify administering the tax lien sale program.

Second, we urge the council to consider exempting all owner-occupied one- to four-family residences. From a strictly pragmatic perspective, this step simplifies the work of

the Department of Finance and Department of Environmental Protection, which otherwise must devote substantial time and resources to determining which homeowners fall within the discrete exemptions set forth in the current code. Most importantly, to broaden the scope of exemption is an equitable solution that will alleviate the crisis in homeownership currently confronting our communities. The efficiency of this approach, combined with the substantial benefit that New York City will gain from improved stability in home ownership, will in all probability outweigh any costs associated with making more homeowners exempt from tax lien sales.

Third, we recommend that the code be amended to raise to \$5,000 from \$1,000 the minimum tax lien debt required before the lien can be sold. Increasing the minimum will allow homeowners the opportunity to seek a resolution to the debt before being faced with the risk of losing his or her home and equity.

Finally, the amended code must contain a remedy for homeowners whose tax liens are erroneously sold. Our office has seen a number of cases of homeowners served with a tax or water lien foreclosure but who had proof they had paid their bills; others who never received proper notice; and still others who should have been exempted from the lien sale. In order to prevent irreparable harm to homeowners in this situation, the code must provide a means for the City to reacquire erroneously sold tax liens. This will insure that homeowners do not have to pay for the city's mistakes.

We share your sense of urgency in addressing this critical issue. Creative solutions are required to manage the financial crisis that threatens the stability of our communities. We thank you again for inviting us to speak today and look forward to working with the Council to prevent these unnecessary foreclosures.

**Testimony before the New York City Council Finance Committee**  
**Intro 26—A local law to amend the administrative code of the City of New York in relation**  
**to the sale of water liens**  
**May 6, 2010**

Thank you, Council Member Vann for your leadership and support of tax lien reform and all of the Council Members who are co-sponsors of Intro 26 — a local law to amend the administrative code of the city of New York in relation to the sale of water liens. I am Herman De Jesus, Senior Program Associate at the Neighborhood Economic Development Advocacy Project (NEDAP), a resource and advocacy center that works with community groups to promote financial justice in low-income communities and communities of color.

With thousands of one- to three-family homes on the 2010 lien sale list, the sale of both property tax and water/sewer liens is a massive problem. Both this year and in past years, tax and water liens are disproportionately concentrated in New York City's communities of color—the same communities that have already been hard hit by predatory lending, foreclosure and the worsening economy. Changes to the lien sale system are critical to strike a balance and ensure that low income families who are struggling to stay afloat and make ends meet do not have the added burden of paying 18% interest and high fees to a private collector, rather than working out an equitable solution with the City. Often homeowners whose tax or water lien has been sold turn to abusive, high-cost credit to avoid foreclosure, further exacerbating the deep financial problems that working families are increasingly facing.

Stand alone water liens are a particular problem. Because a stand alone water lien can now be sold after only one year of nonpayment, a huge number of stand alone water liens now dominate the lien sale, putting struggling homeowners and communities at particular risk. In the latest lien sale, for example, more than 4/5 of the liens on Class One properties in some of the City's most distressed neighborhoods are stand alone water liens. Amending the administrative code of the City of New York in relation to water liens is certainly a good first step to assist struggling homeowners preserve their homes.

NEDAP supports the amendments included in Intro 26 that would:

- extend to three years the minimum period of partial or full nonpayment of tax liens before a sale may occur;
- extend to 120 days the notice period required before a tax lien may be sold;
- exempt a broader range of senior citizens and low-income homeowners from water lien sales;
- require the Commissioner of Finance to try to identify elderly, disabled and low-income homeowners who are eligible for such exemptions;
- give the Commissioner discretion to exempt such homeowners from water lien sales;

- require the Commissioner to provide homeowners written information on the tax lien sale process and the exemptions available each quarter.

In particular, NEDAP believes that the proposed extension to three years of the minimum period for water arrears to be converted to a lien will help to mitigate the onerous effects of the stand alone water lien sale. Your efforts to limit the damage caused by stand alone water lien sales are commendable, but we think that further changes are required to protect New York City homeowners most at risk of losing their homes and equity due to a lien sale:

**The most effective way to address the deleterious impact of the lien sale on lower income neighborhoods and communities of color is to exempt all owner-occupied, Class One properties from the tax and water lien sale.** In order to determine whether a homeowner qualifies for an exemption from the lien sale, the Department of Finance necessarily relies in large part on documentation provided by the homeowner claiming eligibility for exemptions. This approach excludes homeowners who are less able to assert their rights, and also fails to protect financially troubled families who do not fall within one of the existing exemptions. If all owner-occupied Class One homes are exempted from the lien sale, the City would still be able to collect from exempted homeowners by entering into affordable payment plans, ensuring a more equitable balance between revenue collection and the preservation of homeownership for lower income residents. The benefits of this approach would outweigh any costs associated with exempting more homeowners from the tax lien sale.

**All exemptions should apply not only to water liens, but also to property tax liens.** Given the fact that the enabling legislation will sunset later this year, they should be considered jointly.

**Should exemptions of all owner-occupied, Class One homes not be established, then homeowners who are identified as eligible for exemptions must be removed from the lien sale pool.** It has been NEDAP's experience that the overwhelming majority of homeowners who may be eligible for exemptions are unaware of the exemptions and therefore of their eligibility. Mr. and Ms. W, who own a home in Brooklyn, are now retired and should have qualified for the senior citizen's exemption, were not aware of it. Because of illness they were unable to pay their property tax bill and went into the lien sale. The \$15,700 that they owed jumped to more than \$27,000 after the lien sale, putting them at risk of foreclosure. Removing eligible homeowners from the lien sale would ensure consistent treatment of vulnerable homeowners and would simplify administration of the lien sale program by eliminating the need for a case by case review.

**The minimum debt owed prior to a water lien being sold should be raised to at least \$,000.** Increasing the minimum will allow the homeowner a greater chance to seek resolution to the debt before facing the risk of losing his or her home.

**The amended code must contain a remedy for homeowners whose liens are erroneously sold.** In order to prevent irreparable harm to homeowners in this situation, the code must provide a means for the City to defect erroneously sold liens at no cost to the homeowner.

As New York City neighborhoods and huge numbers of residents are suffering during this economic crisis, it is urgent that the City re-think the lien sale process to ensure that the right balance is struck between the City's responsibilities for collecting revenue, preventing foreclosures, and stabilizing distressed neighborhoods. Thank you.

# Water-Only Liens 2009 NYC Tax Lien Sale

/// Population > 50% Black or Hispanic

- 1 Dot = 1 Home in Tax Lien Sale\*



Neighborhood Economic Development  
Advocacy Project (NEDAP)  
(212) 680-5100 | [www.nedap.org](http://www.nedap.org)  
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*\*based on 30 Day Notice List, NYC Tax Lien Securitization,  
water-only liens on 1-4 family homes, April 2, 2009*

*Data Sources: NYC Department of Finance; U.S. Census (2000)*

TESTIMONY BY  
RHONDA A. LEWIS, PRESIDENT  
BRIDGE STREET DEVELOPMENT CORPORATION  
BEFORE  
JOINT TASK FORCE OF FINANCE AND COMMUNITY  
DEVELOPMENT COMMITTEE'S  
PUBLIC HEARING  
ON WATER LIEN REFORM BILL  
MAY 6, 2010

Good afternoon members of the Finance and Community Development Committees and distinguished guest and colleagues. My name is Rhonda A. Lewis, and I am the President of Bridge Street Development Corporation (BSDC).

BSDC is a community development corporation which evolved from the 244 years of sustained community activism of the Bridge Street African Wesleyan Methodist Episcopal Church, one of the oldest African-American congregations in New York City. BSDC's vision is to preserve Central Brooklyn as a desirable neighborhood for raising families, owning businesses and taking part in the rich cultural, spiritual and recreational opportunities that exist in our beautiful section of New York City. In fulfilling this vision, our mission is to build partnerships with businesses, government and other community stakeholders to provide civic and economic opportunities to the residents of Central Brooklyn.

BSDC's work is focused on assisting residents with creating and sustaining assets, and as such we are alarmed at the number of residents who are losing their properties because of past-due water and sewer debt. Central Brooklyn has, not only one of the highest concentrations of water liens, but also some of the highest rates of unemployment. Even though the median household income for Central Brooklyn is below the national average and unemployment remains high, the monthly cost of owning a home in Central Brooklyn is above the national average. According to the 2000 Census, the monthly owners cost for a home in zip code 11216 is \$1,771, zip code 11221



is \$1590 and zip code 11233 is \$1386. That averages out to be about \$500 above the national monthly owners cost of \$1,088. BSDC firmly believes that it is essentially important to the continued viability of our community, to bail out the residents who have remained committed to their neighborhoods and have recently struggled to keep their homes.

BSDC, for years has been at the forefront of assisting residents who were on the tax-lien sale list for delinquent Real Estate taxes and has made an impact on reducing the number of homeowners on the list. This year there were nearly 14,000 people on the tax-lien sale list with more than half of the list having water liens. With the introduction of water and sewer liens, there is a marked increase in the number of residents in jeopardy of losing their homes.

It is critically important to aid our senior citizens whose fixed incomes means that they are often hit the hardest by water rate increases. This is the fourth year in which there have been double digit increases to water and sewer bills. These rates were raised 11.5% in 2007, 14.5% in 2008 and 2009, and a proposed 12.9% for 2010. Add to that the proposed increase for service termination for those customers who have failed to settle their water and sewer debts, and you have a good number of seniors who will be facing an undue financial burden. Senior citizens have inextricably contributed to making Central Brooklyn the culture and tradition rich neighborhood that it is today. After working hard for years to maintain homes for their families, it is only right that we find a way to come to the aid of those who might lose their homes to water liens. BSDC

supports Initiative 26 and its goal of increasing the number of seniors who will be exempted from the lien sale.

Currently, there is no way for the Department of Environmental Protection to identify who on the lien list is a senior citizen. The Department of Finance and the Department of Environmental Protection can help our seniors immensely by simply reviewing the liens to make sure that eligible seniors and disabled persons are exempted from the sale. This in conjunction with lengthening the delinquency threshold from one year to three years, and providing more frequent and transparent notification concerning water debts, will ensure that more homes in Central Brooklyn stay off of the lien sale list and subsequently avoid foreclosure.

Thank you for having me today. I look forward to your questions and comments.



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*Chairperson of the Board*

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*President*

Steven Banks  
*Attorney-in-Chief*

Testimony of The Legal Aid Society Before a Joint Oversight Committee  
Hearing on Int. No. 26  
to Amend the Administrative Code of the City of New York  
in Relation to the Sale of Water Liens  
held by the  
New York City Council  
Committee on Finance and Community Development

May 6, 2010

The Legal Aid Society is the oldest and largest provider of legal assistance for low income families and individuals in the United States. The Society's Civil Practice operates 14 neighborhood offices and city-wide units serving residents of all five boroughs of New York City, providing comprehensive legal assistance in housing, public assistance, and other civil areas of primary concern to low income families and individuals.

We appreciate the opportunity to testify before the Committee.

New York City is in the midst of a tidal wave of home foreclosures. Yet, at the same time, the City is poised to conduct its yearly sale of tax liens to a trust which further exacerbates this crisis by putting several thousand low income and elderly homeowners at risk of losing their home. Based on the 10-day notice list, the anticipated tax lien sale will affect over 9000 New Yorkers who own homes with one-to three units (Class 1 properties) alone. Of these over 7000 liens are being sold based solely on arrears for water and sewer charges. While the sale of liens based on unpaid property taxes require arrears of three

years, water liens can be sold based on arrears of only one year. The sale of so-called 'stand-alone' water liens was authorized by local law in 2007, presumably to lower tax delinquencies. However, this policy has had a deleterious effect on low income homeowners who may stand to lose their home for arrears of as little as \$1000. Moreover, sales based on such stand-alone water liens disproportionately affect communities of colors which are already devastated by the overall foreclosure crisis.

The harsh effects of the overbroad application of the tax lien process are particularly felt by low-income senior citizens. Many have paid off their mortgages and may no longer pay their taxes to the lender as part of their monthly payments. Quarterly tax bill may involve several hundred dollars which many seniors on fixed income cannot afford. Although current law exempts low income homeowners from lien sale whose property taxes are reduced pursuant to the Senior Citizen or Disabled Homeowners exemptions, many elderly homeowners are not made aware of such programs and failing to apply remain subject to the lien sale. Moreover, eligible homeowner can only apply once a year to qualify for such exemption for the next fiscal year.

Once the tax debt is sold the trust can charge interest on the lien at the exorbitant rate of 18% compounded daily, turning what started out as a minor delinquency into a major crisis for the homeowner and ultimately resulting in the trust foreclosing on the home.

The bill before this Council, Int. 26, which would amend Sections 11-319 and 11-320 of the Administrative Code of the City of New York, if enacted represents a first step in mitigating the harm caused by the sale of stand-alone water liens to home owners. The bill would extend the period of delinquency from one year to three years; increase the number

of seniors who would be exempted from the lien sale; require the Commissioners of the Department of Environmental Protection in conjunction with the Commissioner of Finance to use "best efforts" to identify homeowners eligible for exemptions from lien sales and provides the Commissioner with discretion to exclude such properties from the lien sale; extend to 120 days the notice period required prior to the tax sale; and require the Commissioner of Finance to provide owners of class 1 properties on a quarterly basis with comprehensive information on lien sales and the various property tax exemptions which may exclude certain properties from lien sales.

As critical as these amendments to the Code are, we believe that additional changes would further protect homeowners from the harsh consequences of the tax lien sales. In particular, the enhanced exemptions contemplated for water lien sales should be extended to property tax liens as well. And homeowners who are identified by the Commissioner as eligible for one of the enumerated exemptions should be removed entirely from the pool of the tax lien sale. This would not only ensure consistent treatment of vulnerable homeowners but simplify the administration of the lien sale by eliminating the case-by-case review. Also, where the sale was conducted in error, the City should reverse the sale and restore the homeowner to the position they would have been in but for the erroneous sale.

However, pursuant to Section 11-319(b) the law authorizing tax lien sales sunsets by the end of this year which should provide the City Council with the opportunity to reevaluate its approach to tax lien sales, especially as it affects owner-occupied class 1 homes in low income neighborhoods. Such reevaluation should include an analysis of the social and fiscal impact of tax lien foreclosures on families and senior citizens and on their communities, and, moreover, should consider a complete exemption of owner-occupied

homes from the tax lien sale in conjunction with providing delinquent homeowners with affordable plans to cure their tax arrears.

**CONCLUSION:**

Thank you again for the opportunity to testify before the Committee.

Respectfully Submitted:

Steven Banks, Attorney in Charge  
Adriene Holder, Attorney in Charge Civil Practice  
Scott Rosenberg, Supervising Attorney Law Reform Unit-Civil  
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Good afternoon Mr. Chairman, Madame Speaker, Committee Members and Fellow New Yorkers.

I am speaking today as part of the disenfranchised class. There is no classification in the code for my home and me. I live in a family owned <sup>6 Unit</sup> ~~and~~ <sup>and</sup> ~~our~~ father purchased <sup>and</sup> occupied <sup>this</sup> building ~~that~~ for the specific purpose of housing his family. We were 5 children and 1 parent at the time. As was the southern custom my father's intent was for each child to have a unit in the building as their own home. We would all pay the expenses of our unit and the expenses of the overall building. We would all be responsible for repairs. None of us, including our parents had ever lived in an apartment except while in college.

His great intent became "OBJ's folly".

What a terrible mistake my father made. He was ignorant of NYC law. He did not know that he was subjecting us to what appears to be a lifetime of struggle to save the family home. The tenants in this building, it took us 14 years to get 2 non-paying tenants evicted. We have a unit that pays \$160.00 a month in rent. The lady has lived in the building since she was 14. She <sup>is</sup> ~~is~~ way <sup>old</sup> ~~is~~ past 90 now, if she were alive. Her husband holds the unit now. \$160.00 a month.

We have struggled with DEP and the Water Board. My sister is treated kindly, but can't receive the same information twice on any of her visits.

We cannot afford an architect to convert the building to 4 units to meet NYC code to be a family home. That is \$50,000, and then construction costs and building department fees will push us into \$300,000 of debt. Who speaks for those of us who are voiceless? We are not even in a category. And we are not alone. In Bedford Stuyvesant alone there are more than 167 homes like ours. A father buys to make a home for his family not realizing that dream will crumble with everyone becoming homeless in the next generation.

What is needed for us to have a voice?

What is needed for us to be considered as homeowners and home dwellers?

There is not <sup>a</sup> desire to be investors in our home. There really is no desire to be landlords; certainly my father did not plan on that. He wanted to provide a home for each of his children. Much like the southern tradition in, which he was raised. Once the children are grown, dad separates the family land into plots and each child builds a home on the land. Except our version is an urban one. Dad buys a building with just enough room for each child he has and his dream to give each child a start on family land and to have a home.

How do we get a class for situations like ours?

How can we be considered as citizens and not as disenfranchised homeowners forever classified as commercial?



Where and when will you Mr. Chairman, Madame Speaker, Council members hear our voices? We must be heard!

I do not know this system well but I have witnessed the hell my father went through to maintain a home.

I witness the hell my faithful sister goes through managing our home.

And worse, this requires a hearing all of its own: I witness the hellish treatment of the city employees in the water board who play games; they hold the card and jerk you around with one thing after another. With hateful tones, snickering, sarcasm. What is that about? And why?

Please hear the voice of the voiceless; I am certain there are many on that lien lists throughout the city.

I have begun to rally a cry to the disenfranchised like us.

Save our homes too.

I am in a brownstone too with great detail, beveled glass, claw foot tubs, original wainscoting, original plank floors, original layout, and 111 years old. My brownstone is my home too! NOT A COMMERCIAL DWELLING OR INCOME PRODUCING PROPERTY!!!!!!

Please hear our voices too.

Thank you. Anita Burson, Disenfranchised Home Dweller

I would never have imagined that managing a water bill in the City of New York would be such an arduous task that I'd have to ask myself "is it worth it staying here?" During my numerous trips to the Water Board, I have encountered some especially kind representatives who to their credit have done a yeoman's job.

My journey began two years ago in October of 2008 when I went to negotiate my bill after having come off of a bank mortgage. I was able to arrange a payment agreement for 60 months and was assured that when the next bill arrived I would be able to negotiate another agreement without issue. When the next bill arrived, I was informed that I would have had to pay off the old agreement in full (even though it had been far less than the 60 months I was originally given) before I could make another arrangement. I could make one with a 25% down payment, much different from the 10% down payment I'd previously made. I asked the representative why wasn't I told this previously and that I'd initially asked for 12 months but was encouraged by a DEP/water board representative to take a 60 month. Might I say at this point that the bill for my family's 6 unit building seemed excessively high compared to a family friend's two 9 family homes with more than twice the number of people in occupancy than ours.

The representative told me and my sister that it was imperative that we get a water meter and stop being billed on frontage – we'd see a significant difference – thousands of dollars worth of a difference. I told that them it would take time, that my building does not generate a significant amount of income. I was told to continue making payments on my original agreement, work on getting a meter and/or come up with more than \$3,600 to get a new agreement (a 25% deposit. By the way if I were to need an agreement for the year following, then the down payment becomes 50%). I asked what should be my priority as finances dictate what can be done. I was told, if I had to make a choice, then get the meter, It'll make all the difference. My family and I did. We scrambled to get the meter in only to be told last week that putting the meter in was basically a waste of time. It would not make a difference in the bill. I asked would it have been more efficacious to skip have the meter installed for the time being and put the money towards the bill and I was told yes, that I should have paid the extra money on the bill. I also asked when would my meter be read and was told that it had been read, but I hadn't requested metered billing. Now why on earth would I put a meter in with no intentions of using it? I was given a never before seen form to formally request to have the meter read. Since I was being told that the meter would not make a difference in my bill, and that once I went on metered billing that I could not go back to frontage IF metering turned out to be higher; then could I please receive a comparison between say March 2009 and March 2010 since there had been a reading so I could make an educated choice and apparently, that is not procedure. An unfair one, and one that could only benefit DEP.

I've been to DEP more than half a dozen times since October, I can't say that I've received the same information twice. It began to feel a little like a puzzle where you receive a new piece each time you visit.

I am not going to take the time to rigorously detail all of the experiences that I've had in the five visits that I've made to DEP in the last 10 days. I guess the bottom line is this. Consistency of information. If I am visiting the office, then please, give me something in writing. Isn't every consumer entitled to receive information in writing so everything becomes a less arbitrary? A lot of the running around

associated with information or misinformation as it were could have been avoided if anything had been provided (such as options) other than a bill and notice of potential sale.

When your name is on a lien list for potential sale, you are hurting and facing the possible loss of everything you've worked for and sunk your life's blood and savings into. The last thing you need is to hear that unnecessary time and financial resources have been possibly wasted. Finally, I've heard all the glorious words about the possibility of still saving your home even after being sold in a lien sale. This might be true, but I'd venture to say highly unlikely. After your lien has been sold, you enter a huge gray area where you have to wonder just what the terms for salvation will be. DEP stops at telling you that you do have an opportunity to save your home, but neglects to tell you (unless pressed) that the terms might be pretty harsh and even more unattainable than coming up with funds to enter into an agreement. Please be honest with us. We're not stupid, some of us are just poor or have been hit hard by the recession. It is needless cruelty to pacify us with the hope of actually being able to buy back the lien without even knowing what to expect from the purchaser of the lien.

This is the most progressive city in the world. We need to get it together. I've always known that one can lose their home over taxes, or mortgage foreclosure, but water that falls freely from the sky? Please City of New York, DEP work with us. Allow multiple payment plans for different years without increasing the down payment to a ridiculously high percentage for each successive year. For

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: \_\_\_\_\_

Name: Anita Burton (PLEASE PRINT)

Address: 820 Maccy Ave

I represent: Our Family

Address: \_\_\_\_\_

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THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 26 Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: \_\_\_\_\_

Name: Judith Goldner (PLEASE PRINT)

Address: 199 Water St

I represent: Legal Aid Society

Address: \_\_\_\_\_

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Appearance Card

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 in favor  in opposition

Date: \_\_\_\_\_

Name: Joseph Singleton, Jr. Dep. Comm. (PLEASE PRINT)

Address: \_\_\_\_\_

I represent: DEP DEP

Address: 59-17 Junction Blvd, 11373

Please complete this card and return to the Sergeant-at-Arms

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THE CITY OF NEW YORK**

Appearance Card

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in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Cas Holloway, Commissioner

Address: \_\_\_\_\_

I represent: DE P/1011, Dep. Comm.

Address: 159-17 Junction Blvd, ZIP 11373

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Appearance Card

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in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Rhonda A. Lewis

Address: 460 Nostrand Ave

I represent: Bridge Street Development Corp.

Address: 460 Nostrand Ave, Bklyn, NY 11216

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THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 26 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 5/6/10

(PLEASE PRINT)

Name: Michael Hickey

Address: 74 Trinity Pl Suite 1302

I represent: Center for NYC Neighborhoods

Address: same

Please complete this card and return to the Sergeant-at-Arms

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Appearance Card

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in favor  in opposition

Date: 5/6/2010

(PLEASE PRINT)

Name: Emily Storm

Address: 105 Court St., Brooklyn NY 11201

I represent: South Brooklyn Legal Services

Address: \_\_\_\_\_

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Appearance Card

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in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Herman De Jesus, Sr. Program Assoc.

Address: 176 Grand St, Ste 300, NY, NY 10013

I represent: NEDAP

Address: same as above

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Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 5/6/10

(PLEASE PRINT)

Name: Stephan Dokeeram

Address: 1224 Bedford Ave, BK NY 11216

I represent: PACC

Address: 1224 Bedford Ave, BK NY 11216

Please complete this card and return to the Sergeant-at-Arms