CITY COUNCIL
CITY OF NEW YORK

------------------------X

TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON FINANCE

COMMITTEE ON COMMUNITY DEVELOPMENT

------------------------X

February 18, 2011
Start: 9:30 am
Recess: 12:37 pm

HELD AT: Committee Room
250 Broadway, 16th Floor

B E F O R E:
DOMENIC M. RECCHIA, JR.
ALBERT VANN
Chairpersons

COUNCIL MEMBERS:
Domenic M. Recchia, Jr.
Albert Vann
Gale A. Brewer
Leroy G. Comrie, Jr.
Lewis A. Fidler
Helen D. Foster
G. Oliver Koppell
Diana Reyna
Joel Rivera
Fernando Cabrera
Julissa Ferreras
Karen Koslowitz
James S. Oddo

A P P E A R A N C E S

COUNCIL MEMBERS:

Stephen Levin
Ruben Wills
Melissa Mark-Viverito

A P P E A R A N C E S (CONTINUED)

John Grathwol
Assistant Director of Tax Policy, Revenue Forecasting
And Economic Analysis Task Force
NYC Office of Management and Budget

Rafael E. Cestero
Commissioner
NYC Department of Housing Preservation and Development

David M. Frankel
Commissioner
NYC Department of Finance

Caswell F. Holloway
Commissioner
NYC Department of Environmental Protection

Alexis Iwanisziw
Program Associate
NEDAP

Aisha Baruni
Staff Attorney
Foreclosure Prevention Project
Queens Legal Services

Oda Friedheim
Supervising Attorney
Foreclosure Practice
Legal Aid Society

Judith Goldiner
Legal Aid Society

Laurie Izutsu
Foreclosure Prevention Project
South Brooklyn Legal Services

A P P E A R A N C E S (CONTINUED)

Justin Haines
Director
Foreclosure Prevention Unit
Legal Services NYC - Bronx

Michael Hickey
Center for NYC Neighborhoods

Imelba Rodriguez
Homeownership Services Manager
Bridge Street Development Corporation

Moses Gates
Association for Neighborhood Housing Development

Calvin Grannum
President
Bedford Stuyvesant Restoration Corporation

Bonita Dowling
Homeowner Counselor
Pratt Area Community Council

Catherine Isobe
Staff Attorney
Foreclosure Prevention
Bedford Stuyvesant Community Legal Services

Mary Ann Rothman
Executive Director
Council of New York Cooperatives and Condominiums

CHAIRPERSON RECCHIA: Good morning and welcome to today's Finance Committee hearing. My name is Domenic M. Recchia, Jr. I'm the chairman of this wonderful committee. This hearing is being held jointly with the Committee on Community Development, Chaired by my colleague and good friend from Brooklyn, Council Member Al Vann.

I want to thank everyone for joining us today on this lovely Friday morning. Before I move further, I'd like to introduce all my colleagues who have joined us here today. We have Julissa Ferreras and we have Ruben Wills.

Today, we'll consider Proposed Intro 26-A, which would extend the Finance Commissioner's authority to sell tax liens as well as the authority to conduct standalone lien sales on emergency repair charges and removes the global exclusions of HDFCs from the lien sale.

While this legislation provides the commissioner with broad authority over the types of liens that can be sold on certain properties, this legislation also incorporates protection to ensure the city's low to moderate income property owners and affordable housing stock are protected while at the same time encouraging people to pay back their debts.

In 1996, the Commissioner of Finance was granted the authority to sell delinquent property taxes as well as other charges, including water and sewer liens when their property taxes were also delinquent. HDFCs were excluded from lien sales. In 1997, '99, 2001, 2003, 2004, 2006 and again in 2007, the Council extended the commissioner's authority to sell these tax liens.

Under Local Law 68 of 2007, the commissioner was granted the authority to sell standalone water liens. In other words, individuals with a lien on their property for only delinquent water debt would be eligible to have their lien sold to a trust. In the 2007 legislation, all single family homeowners in Class 1 were exempt from standalone water liens. Certain senior, disabled and low income homeowners owning two or three-family properties in Class 1 were also exempt from the lien sale if they only had water debt.

While the 2007 legislation decreased the delinquency rate for the non-payment of water and sewer charges, we have learned that the law disproportionately affected seniors as well as low and moderate income property owners of two and three-family homes in communities of color.

In response, in May 2010, this committee along with the Committee on Community Development chaired by Al Vann, held a hearing on Intro 26, which provided protections for individuals included in the lien sale for delinquent water and sewer charges. Some of the protections included increasing the threshold from a property that could be sold for water charges from one to three years, increasing the monetary threshold from $1,000 to $3,000. The bill also excluded individuals receiving enhanced STaR or veteran's exemption from the lien sale who had delinquent water charges.

Since the hearing, we have heard a lot. We have been working closely with all the agencies involved. We have learned that individuals who were noticed for sale, or had their property sold, found it difficult to pay off their debt because of the high interest rate associated with the debt, lack of affordable payment plans and lack of communication between the homeowner and the servicer once the lien was sold.

We also learned that many individuals who owed thousands of dollars in debt to the city have escaped the lien sale because they did not have a separate property tax lien or separate water lien. Under current law, liens from charges owed to the city cannot be sold unless such liens also have a real property tax component or water charge component.

In the fall of 2010, the Administration presented the Council with a proposal. The proposal would have done several things regarding the lien sales. It would have extended the Commissioner's authority to sell lien sales for four years. Two: included all HDFCs in the lien sale if they had delinquent charges. Three: decreased the threshold that triggers when a property tax lien could be sold from three years to one year and $1,000. Four: allowed all liens for charges owed to the city to be sold in the lien sale even if they did not have a property tax component.

While this bill did a lot of things, it did not do one very important thing. It did not include any of my colleague Councilman Al Vann's protections that were included in the 2010 legislation.

Now, let's talk about the bill before us today. The 2010 bill amended the 2010 legislation to reflect all of Councilman Vann's original provisions regarding the water charges and protections for homeowners, which I will defer to Councilman Vann and pass him the mike to discuss.

CHAIRPERSON VANN: Thank you, Chairman Recchia. Good morning. As he indicated, I am Council Member Vann, Chair of the Committee on Community Development. I'm very pleased to co-chair, if you will, with Chairman Domenic Recchia and members of the Committees on Finance and Community Development for this joint hearing on Intro 26-A.

The bill was originally introduced

in 2009 as Proposed Intro 1071-A, during the Council's past legislative session. It was re-introduced in February 2010 as Intro 26-A. A hearing was held on the bill this past May.

Since that time, Intro 26-A has been substantially revised to include comprehensive reforms aimed at protecting economically vulnerable homeowners. In addition, the bill adds new categories of city liens that would be subject to the annual lien sale: Emergency Repair program liens and also HDFCs.

Chairman Recchia has pretty much discussed the new lien sale categories. I will focus my comments on the water lien provisions of the bill.

Back in 2007, during the beginning of the financial crisis, I voted against the Council's legislation that created standalone water liens. During that time, I had concerns about the potential economic burden that this new type of lien could place on homeowners and communities already facing high rates of unemployment and foreclosure.

In 2009, my office began receiving

reports from advocates about seniors with unpaid water bills who were being included in the lien sale. Many for delinquency amounts that was minimal in relation to the value of their homes. Low income homeowners, including seniors and disabled persons were intended to be excluded from the lien sale through their enrollment in certain homeowner tax exemption programs.

What we learned, after the law's enactment, was that many eligible homeowners were not enrolled in these programs, which is currently required in order to be exempted.

Since that time, to their credit, the Department of Finance and the Department of Environmental Protection have developed ways to prevent vulnerable homeowners from needlessly entering the lien sale.

Intro 26-A codifies a number of these agency procedural changes. The bill requires coordination between the Department of Finance and the Department of Environmental Protection to streamline customer service delivery to lien sale eligible New Yorkers. It increases delinquency threshold amounts. It provides more notice, from 90 days to 120 days. It requires first notice by certified mail, versus the current requirement of first notice by publication in the newspaper. It exempts enrolls and those who are eligible to be enrolled in certain homeowner exemption programs. It also requires the creation of a means-based payment plan to give homeowners an affordable way to pay off their debt.

Through our research, we also learned that once a lien has been sold to a city trust, homeowners were faced with severe charges and high interest fees, with few lines of communication with debt servicers.

The Committee on Community Development held an oversight hearing on September 28th, 2010, to review post-lien sale fees and found out that lien sale debts, in some instances, were doubling in one year's time, due to the post-lien sale servicer's interest rate of 18 percent, city delinquency surcharge of 5 percent and nondescript lien servicer fees.

Intro 26-A helps homeowners after their liens have been sold as well. The post-lien sale provision of this bill makes it easier and more affordable for a homeowner to pay off their lien once it has been sold. The bill improves communication with lien servicers by requiring DEP and DOF to serve as liaison between and owner and the servicer. The bill also makes more transparent lien servicer fees by requiring them to be itemized on the actual bill.

And finally, Intro 26-A adjusts the post-lien servicer interest rate by linking it to the Banking Commission's rate for delinquent property taxes, which will, in fact, lessen the overall costs of the lien once it has been sold. That is for the majority of homeowners.

The set of comprehensive reforms built into Intro 26-A are both socially and fiscally responsible. While Intro 26-A adds provisions to protect our city's most vulnerable homeowners from the financial risk posed by the lien sale, the bill strikes a balance. It authorizes the sale of certain municipal liens, which have proven to be an effective tool for city debt collection. As proposed, Intro 26-A is a bill that is socially and financially a win/win.

I'm very pleased to serve as lead

sponsor on this bill, with Chairman Recchia. I've worked diligently to craft, over the past two years, a bill with advocates, including NEDAP, South Brooklyn Legal Services, Legal Aid Society, Queens Legal Services and Council Finance staff. I look forward to the testimony for OMB, Department of Finance, HPD, DEP, legal advocates, and housing groups, all of them. This is an excellent bill. I want to thank all of the advocates for their participation and support as we move through this day. Thank you very much. Chairman?

CHAIRPERSON RECCHIA: Thank you, Council Member Al Vann. Before I move forward, I want to recognize we've been joined by Diana Reyna, Oliver Koppell and Lewis Fidler.

I want to just describe for the public and for all of my colleagues, I want to make it clear that the city sells a lien on the property. The city does not sell the property at the lien sale. After the sale, owners will still have the right to possession and title of their property until they pay off their debt or until a prescribed time has passed without payment from the owner.

When an individual owes a debt to the city that is unpaid and delinquent, a lien can be placed on the property for which the debt was accrued. Prior to 1996, a certain time period of unpaid debt, the city would be able to start foreclosure proceedings on the property if the debt remained unpaid. This process is known as the In Rem program. However, the In Rem program was very expensive to the city, because the city had to maintain the properties once they were in the city's possession.

Not only did the In Rem program fail to address the underlying reasons for tax delinquency and abandonment, the city was unable to quickly resell the properties to responsible private owners. As a result, many properties remained in the city for over 30 years before they were sold.

In 1996, all this changed with the lien sale. Instead of the city taking possession of a property, once a property was in arrears, the city would sell the liens to a private party, a trust, which then hired collection agencies, called servicers, to enforce the debt owed to the trust. Once the lien is sold to the trust, the property owner can enter into a payment plan with the servicers to satisfy the debt, which now rests with the trust.

By law, once the city sells the lien to the trust, foreclosure proceedings can only begin if the owner remains delinquent and has not entered into a payment plan, or has paid the interest on the liens for at least seven months.

In the case of Class 1, the timeframe is one year. The Administration tells us, the Finance Division confirms that out of approximately 25,000 properties that are placed on the lien sale list each year, an average of 22 properties actually result in foreclosure, which on an average occurred after two to four years from the date of sale. The remaining properties are removed from the lien sale list because they either satisfy their debt, entered into a payment plan, or qualified for an exemption.

I want to explain that process to the public and to my colleagues so they can understand that the lien sale or threat thereof is a tremendous enforcement tool for delinquent bill payers and in most instances do not result in foreclosure.

I just want to quickly go over the HDFCs. The HDFCs, Housing Development Fund Corporations, are housing units incorporated under state law to provide affordable housing in the form of co-ops or rentals. In 1997, one year after the first year of lien sales, all HDFCs were excluded from the lien sales. What this means is that HDFCs were able to accrue a substantial amount of debt without ever going to the lien sale.

As a result, currently there are over 2,000 HDFC properties with delinquent city debt, either for property, water, emergency repairs or some other charge, with outstanding arrears totaling approximately $27 million. In order to encourage debt payment by HDFC, the bill before us today allows HDFC rental properties to be included in the lien sale. Condos and co-ops will remain exempt.

We allowed rentals to be included in the lien sale because on the Emergency Tenant

Protection Act once an HDFC is sold in foreclosure, the new owner of the HDFC building is required to maintain affordable rents for the renters who remain in the HDFC rental building. However, there is no such protection for co-op or condo owners. To protect the affordable housing stock in New York City, we excluded co-op and condo owners from the lien sale.

Under this bill, only liens on 167 HDFC rental properties would be eligible for the sale. These properties will not be eligible for the lien sale until next year and their threshold for inclusion in the lien sale would be two years and $5,000.

Beginning in April, HPD would have to notify HDFC rental units of the Commissioner's new authority to sell HDFC rentals. We hope this will allow them to prepare financially and begin payment plan arrangements with the respective agencies. Commissioner Cestero will describe how HPD will work with these buildings to help them do so.

Another provision of the bill I want to highlight is the inclusion of Emergency

Repair charges as standalone liens. Out of all the property-related debt owed to the city, Emergency Repair charges account for over 38 percent of the debt. While emergency repairs done by HPD are for repairs that directly affect the health and safety of building residents, many property owners, particularly owners of rental buildings, not only fail to perform necessary repairs on the property to keep their tenants safe, but they also did not repay the city when the city made the repairs for them.

So this bill today would allow liens for emergency repair charges to be sold as standalone when they exceed $2,000 and have been delinquent for two years. All Class 1 residential properties would be excluded, with the exception of non-owner occupied three-family homeowners who are in the Alternative Enforcement Program, a program where HPD intervenes with multi-family buildings with excessive hazardous building violations.

More information is provided in your briefing materials provided by the division staff known as the "Lien Team." I want to thank them: Tanisha Edwards, Anthony Brito, Emre Edev, and Kate Seeley Kirk. They've done a great job on this legislation. I also want to thank the Housing Committee staff and the Community Development staff as well as the policy division who have done a great job in this issue.

I also would like to recognize and just make a statement. I want to thank my colleague, Julissa Ferreras, because in this bill we included a certain part. We inserted a provision in the bill that requires DEP to place disputed status online so customers will be updated of the status of the dispute. This part we think is very, very important. I want to thank Julissa for adding that provision.

Before we let our wonderful commissioners testify here today, I want to recognize Helen Foster and Jimmy Oddo.

At this time, my colleague Ruben Wills would like to make a short statement.

COUNCIL MEMBER WILLS: Good morning. As many of you know, my district was one of the hardest hit from the foreclosure crisis and the unemployment rate due to the economic crisis.

I would just like to express this morning my appreciation on behalf of my constituents as whole, but especially on behalf of the seniors, single-parent households, veterans and those who have fallen into dire economic straits.

This bill will go a long way to make sure that those who have found themselves trying to hold onto the American Dream of home ownership will not be victimized once again.

The Chairs Recchia and Vann have done a tremendous job on this bill. I just want to thank you on behalf of the constituents in my district.

CHAIRPERSON RECCHIA: Thank you very much. John, do you want to start first? Then we'll have HPD and then we'll leave it up to Finance and DEP. I want to thank all of you for being here this morning.

JOHN GRATHWOL: Good morning, Chairman Recchia, Chairman Vann and members of the committee. I'm John Grathwol, Assistant Director of Tax Policy, Revenue Forecasting and Economic Analysis Task Force at the New York City Office of Management and Budget. In this position, I oversee forecast of the City's $42 billion tax revenue budget. As part of that job, I also oversee forecasts of the proceeds from the City's tax lien program. Thank you for inviting me to testify this morning on behalf of OMB Director Mark Page.

Before I turn my attention to Intro 26-A, the bill before your committees today, I would like to review with you some background about the lien sale and its history. Forgive me if I duplicate some of the Chairman's comments, but I think it's important.

Prior to the lien sale, the City's primary collection enforcement tool was the In Rem program, which allowed the city to take ownership of properties in debt. Despite the fact that these properties owed on average only $36,000 in back taxes when taken in rem, the cost averaged $2.2 million per building to acquire, manage, renovate and return to the tax scrolls through a sale.

In the early 1990s, the City determined that it could no longer afford the high cost associated with the in rem program. The lien sale program was implemented in 1996. Prior to its inception, similar programs were established in many cities, including Philadelphia and Washington, D.C. The lien sale program goal has always been to reduce the cost associated with collecting outstanding property tax, water and other municipal debt while increasing the overall collection rates.

Since 1996, when the Council first authorized the City to sell tax liens, the Council has passed ten Local Laws extending, amending or expanding the lien sale program. The authority to sell tax liens was expanded three times, in 1997, 2001 and 2007.

Over this long successful history, the annual tax lien program has completed over 16 bond sales, totaling over $1.5 billion in bond proceeds and residual payments. Since implementation, the City has received over $5 billion in additional property tax and water payments, as a result of increased voluntary compliance due to the program.

Most recently, in December of 2007, the Council passed legislation expanding the

City's authority to sell standalone water charges on two and three-family homes and Class 1 and Class 2 condo and co-op and condo properties. This authority helped raise the water-only lien sale revenues to nearly $300 million over the last three years.

The lien sale program has been a successful and important tool for the City's collections effort. The strength of the lien sale program as a voluntary compliance mechanism is demonstrated by the recent results of the program. Over the last three years, about 25,000 parcels with delinquent liens were contacted on the initial noticing date. By the time the 90-day notice period had expired, only about 5,000 liens remained to be sold to the tax lien trust.

Most of the noticed parcels, about 20,000, were removed from the sale prior to the sale date. Of these, about 15,000 were removed because taxpayers paid off their debt or entered into payment plans with the city. The remaining 5,000 were removed because of the added safeguard of statutory exclusions, HPD discretionary exclusions and other corrective removals.

The history of the last three years also demonstrates that the protections built into the current lien program: noticing prior to lien sale, statutory exclusions for needy taxpayers and servicer actions after the sale result in very disclosures. Of the roughly 5,000 liens sold to the trust in recent years, the vast majority pay their delinquent tax and water debt, including the associated fees and penalties, and do not lose ownership of their properties.

Only about 42 tax liens per year for all property tax classes were sold at foreclosure auctions in the last three years. This is out of the roughly 5,000 liens sold to the trust each year. This is less than one percent. Results for one to three-family homes are even smaller. On average, only about ten properties per year were sold at foreclosure auctions in the last three years.

Now, by way of review, let me explain how the lien sale program works with respect to property taxes. Very similar procedures apply to water liens, but in the interest of time, I'll focus on property taxes.

As you all know, this is a complicated business.

The city law allows the city to sell the right to collect the outstanding property or water debt. This is a key point. When we sell a lien, we're not selling the property. We're selling the right to collect the debt. Properties that do not pay their tax on time are in danger of having a lien sold if they meet the following criteria for the property tax.

For one, two and three-family homes, residential condos and cooperative apartments an owner is at risk is he or she owes more than $1,000 in property tax and it has been delinquent for at least three years.

For commercial condos, apartment buildings, utility properties and commercial buildings, an owner is at risk if he or she owes more than $1,000 for at least one year.

As a built-in safeguard, the typical homeowner will receive at least 12 quarterly stating their property tax, past due balance or debt, before they are entered into the lien sale process. That's four notices per year for three years, before entering the lien sale process.

Once the lien sale process begins, the city will contact the affected property owners as a further safeguard at least three additional times with targeted messages. The City Department of Finance sends delinquent owners a notice of our intent to sell the lien if they do not resolve their debt within 90 days. Finance also publishes the list of properties in a local, major daily newspaper, places ads in other daily newspapers and community papers across the city and posts the list on the Finance website.

Thirty days later, the Finance sends another second notice to owners. Thirty days after that Finance sends a third notice. Ten days before the sale, Finance publishes an updated list in the newspapers.

In addition, Finance conducts outreach meetings at various communities across the city, informing taxpayers of the lien sale program and payment plans are offered to needy taxpayers. Finally, the City sells a lien for all the properties that have failed to address their debt.

This past year, of the 25,000 properties initially noticed, roughly 5,000 had the lien actually sold. The sale is technically a transfer of the debt to a trust. Once the lien is sold, it is no longer an asset owned by the city. Depending upon the year, the trust in turn pays the city 70-80 cents on the dollar upfront for the debt that is sold.

The trust funds the payment to the city by selling bonds backed by the debt and the value of the associated properties. The trust relies on servicers to collect the debt, and the amounts collected are used to redeem the bonds issued by the trust.

As the city no longer owns the property tax and water delinquencies, the actions of the servicers are governed by a servicing agreement between the servicers and the trust.

In addition, the Real Property Actions and Proceedings law of the State of New York and the Civil Practice Law and rules of the State of New York govern the actions of the servicers with regard to foreclosure practices. Once the bonds are redeemed through the collection of the debt by the lien servicers, the City receives the remaining residual collections on the property tax and water debt.

Lien servicers are selected by the city on behalf of the trust ever several years through an RFP process. The servicers are required to submit an annual audit on agreed upon procedures that meet the city's standards of conduct. The servicers pursue outstanding debt by sending letters and starting foreclosure proceedings in court. The servicers also offer delinquent taxpayers the opportunity to enter into an installment plan.

Liens accrue interest at interest rates prescribed in the Local Law. The lien sale was designed so the cost of collecting the delinquent debt is borne by those who do not pay their property tax, water bills and other municipal charges rather than by city taxpayers and water rate payers who abide by the law. Currently, 98 percent of the property tax is paid on time and 88 percent of DEP water accounts pay their balance within two billing cycles.

We prefer to collect delinquent

charges without having to sell a lien. In many of these cases, property owners have received as many as 15 notices but decide to ignore their debts until enforcement action is imminent.

The overwhelming majority of owners avoid foreclosure. The lien sale program incorporates a number of safeguard to make it easy for owners to avoid having a lien sold. We offer payment plan agreements to all property owners who have fallen behind on their payments. No needs-based test is applied. Property owners and water rate payers can secure a payment plan at any time.

We've worked with members of the City Council to conduct outreach sessions in each borough, giving owners a chance to meet with Finance, DEP and HPD after work hours to resolve their debt. Finance and DEP keep offices open late during the notice period to help customers and HPD has joined us in an effort to protect owners against predatory lenders and to offer loan and other advice.

We have also targeted those homeowners we believe may be eligible for the senior citizen homeowner exemption or the disabled homeowner exemption and send specialized outreach letters with exemption application forms.

That's an overview of the current program. Now, let me turn my remarks to the proposed legislation before you committee today, Intro 26-A.

The Administration welcomes the expanded authority to sell other municipal charge liens and Housing Development Finance Company liens incorporated in this bill. As you heard at yesterday's budget briefing, despite an improving economy, this city is still facing teacher layoffs and across the board agency expense reduction program announced in November. If the additional state aid sought in the budget announced yesterday fails to materialize, further cuts will be necessary. The city badly needs additional revenue.

However, there are a number of areas where Intro 26-A needs to be improved. As there are a number of Administration officials waiting to follow my testimony, I will restrict my comments to the provisions of the bill that may interfere with a successful securitization of the tax liens.

First, we're particularly concerned about the certified mailing requirement. It is general recognized within the debt collection industry that debtors avoid accepting certified mail from creditors. If a signed receipt of a piece of certified mail is required to make the sale of a lien to the trust valid, the legislation may open a very wide back door to allow delinquent tax or water rate payers to avoid inclusion in the sale.

Second, the legislation provides that certain taxpayer delinquencies, which were initially sold to the trust, will be deemed effective if the taxpayer was eligible for a statutory exclusion. Say, the senior citizen homeowner exclusion, but was not enrolled because the taxpayer had not yet applied.

This proposed authority of the city to remove liens after their sale, based on retroactively applying eligibility rules for certain tax credits may undermine the strength of the true sale between the city and the trust. This makes it more difficult for the city to make a true sale representation at the time of the sale. Having a legal true sale between the city and the trust is crucial to structuring and marketing the bonds.

Third, this bill adds significantly to the complexity of the sale criteria. It adds other municipal ERP liens and HDFC liens, property tax, water and ERP, which we welcome. But it applies different aging and minimum threshold criteria. It redefines and increases the aging and minimum thresholds for two and three-family home water liens. It does not allow the sale of all outstanding liens once the property for sale under the various prescribed qualification criteria.

All the property's liens, for example, are not put in the sale one the property qualifies. The result is a pool of eligible liens that is much more complex to value than under the current law or under the Administration's proposal.

This is likely to have three unforeseen negative consequences. High complexity makes it harder to get a high valuation of the collateral by the rating agencies and bond investors. The likely result will be the city receiving less upfront bond proceeds from the sale of the liens to the trust.

High complexity also significantly increases the likelihood of taxpayer confusion. Imagine explaining to one of your constituents the current lien sale eligibility criteria. I have trouble. I've been over this more than a few times, but it's a lot and it's confusing. Now imagine explaining the lien sale eligibility criteria of your proposed bill to this constituent. For the sake of saving time, I won't try and explain those to you now.

Finally, high complexity will likely result in an increase in sales in area which would increase the rate of defective liens.

Finally, let me briefly review the revenue impact of the bill. The Administration's lien proposal which has already been summarized here today, was conservatively estimated to yield $87 million in additional collections and lien sale proceeds in the first year and about $24 million per year in recurring additional funds.

Intro 26-A, with no authority to sell single-family water liens, no reduced aging for Class 1 and co-op and condo property tax liens, only partial authority to sell other municipal charge and HDFC liens, reduces this estimated revenue yield to $31 million in the first year and $3 million in recurring collections and lien sale proceeds.

The revenue left on the table by Intro 26-A is $56 million in the first year and $21 million in recurring revenues. This estimate, however, is without factoring in the cost of the increased aging criteria, the shortened look back period for ERP liens, the expanded minimum threshold criteria for two and three-family water, ERP and HDFC liens, the vets and enhanced STaR with the senior citizen homeowner income cap times 1.5 and the lowering the interest rates, and the additional loopholes created by the bill through principally the certified letter issue and the disputed charge lien removal issue.

I have not yet had time to develop a revenue estimate for all of the detailed components of the bill. But if we just look closely at one of the loopholes, it seems clear to me that either the certified letter requirement or the disputed charge lien removal could potentially be large loopholes. If ten percent of taxpayers noticed with the certified letter, for example, refuse to sign the letter, the lien proceeds would decline by $4 million per year.

This is baseline lien proceeds that would decline. Just that overwhelms what I've priced the recurring revenue of the Intro 26-A to be. Plus, the city would lose an additional $55 million per year in enhanced collections over time. This is just the lost property tax revenue. It would obviously be more once lost water proceeds and enhanced water collections coming from the lien sale were counted.

The bottom line is that the loopholes and relaxations in lien eligibility criteria could, if enacted, result in a significant baseline revenue loss at the time the city needs all the revenue that it can get.

Thank you for the opportunity to speak this morning. I look forward to working with you and your staff to improve the bill you have before you today. Thanks.

CHAIRPERSON RECCHIA: Thank you. HPD next. Before you go, Commissioner, I'd like to recognize we've been joined by Joel Rivera.

RAFAEL E. CESTERO: Good morning, Chairman Recchia, Chairman Vann and members of the Finance and Community Development Committees. My name is Rafael E. Cestero and I'm the Commissioner of the Department of Housing Preservation and Development. Thank you for the opportunity to discuss the renewal and amendments to New York City's authority to sell outstanding liens on municipal arrears contained in Intro 26-A.

I would like to begin by saying that I concur with all of the statements made here today by my colleagues and I have appreciated working together with them and their staffs as well as you and your staffs to put this bill together. This legislation is vital to the City's ability to conduct business and I look forward to working with you and your staff to make sure that we find appropriate solutions.

I would like to focus my testimony on two items in Intro 26-A that significantly affect the maintenance and preservation of New York City's housing stock. The first is the establishment of standalone lien authority for the cost the agency incurs in the operation of the Emergency Repair Program, or ERP.

As you recall, this proposal was a key component of the proactive preservation initiative we announced last month with Speaker Quinn and Chairman Dilan. ERP allows HPD to intervene to make repairs on residences when owners cannot or will not make the repairs on their own.

The cost for these repairs is then billed to property owners, ultimately becoming a lien on the property if left unpaid. Under previous lien sale authority, ERP liens could only be sold to a servicer when the property also had outstanding real estate tax and/or water and sewer liens.

This presented a scenario where scofflaw property owners would pay outstanding real estate taxes and water charges while allowing ERP debt to accumulate without any threat of penalty. In essence, it made the city responsible for building maintenance and the corresponding costs. There are currently over 2,400 properties that fall into this potential category, with a total balance of over $31 million in unpaid ERP charges.

The authority proposed in Intro 26-A to allow the Department of Finance to sell outstanding ERP liens not only helps the city recoup the funds expended on protecting the habitability of housing units across the city, but also provides an incentive for landlords to maintain their property in good order, reducing the need for ERP altogether.

This, coupled with the recent amendments approved by the City Council to the Alternative Enforcement Program, gives us a set of new tools to address some of the most physically distressed buildings in the city and to more aggressively protect our city's housing stock.

The standalone lien authority proposed in Intro 26-A would take effect once a property had accumulated a minimum of $2,000 in ERP arrears and had been left unpaid for a minimum of two years. Under these criteria, the city would capture 581 properties with outstanding ERP debt and no corresponding real estate and water debt, totaling over $9.5 million. We feel that the two-year threshold allows recalcitrant owners more time to ignore their buildings while tenants' living conditions continue to degrade.

We propose reduce that threshold to one year to capture an additional 363 properties and an additional $9.8 million in outstanding ERP debt. This amended threshold will capture a larger portion of potential bad actors and force as many owners as possible to keep their properties in good repair.

Further, requiring such an elevated threshold would only serve to undermine recent amendments made to Local Law 29. In fact, 110 buildings currently in the Alternative Enforcement Program would not be captured in the lien sale if the two-year criteria is utilized. Allowing buildings a free pass to accumulate more debt will limit our ability to force owners to make needed improvements and drain our AEP and ERP budgets at a time when city resources are constrained. Practically speaking, the higher the lien value, the more difficult it will be for owners to pay off their debt and get them out of the lien sale altogether.

Finally, as you know, HPD has made a significant commitment to preserving the long-term viability of the 300,000 units we have invested in over the past 30 years. To do this, we will require new tools to ensure affordability of this stock. Intro 26-A also proposes to remove the existing exclusion from the tax lien sale on Housing Development Fund Corporation, HDFCs operating as rental units. HDFCs are housing units incorporated under state law to provide affordable housing to New York State residents.

Under the previous lien sale authority, HDFCs were excluded from the lien sale. Unfortunately, this exclusion has led to a significant accumulation of outstanding tax arrears of the city's HDFCs, with some individual buildings having arrears as high as $5 million. The accumulation of this level of arrears is indicative of a need for an assessment of the buildings financial and physical profile. Removing the statutory exclusion will assist HPD in making contact with these HDFCs in hopes of providing guidance and resources while ensuring they remain in good standing with their municipal debt.

For buildings that we have identified as distressed with absentee landlords, the third party transfer program may ultimately be the appropriate vehicle for conveyance to a responsible new owner.

We thank you for your efforts in pursuing these amendments and for the opportunity to offer suggestions we think will improve this legislation. Renewal and expansion of the city's ability to sell liens is a vital tool that enables HPD to protect tenant rights as well as to maintain safe residential dwelling units.

We welcome any follow-up questions you might have.

CHAIRPERSON RECCHIA: The Department of Finance? We're going to let all of the commissioners testify and then we'll take questions.

DAVID M. FRANKEL: Good morning Chairs Recchia and Vann and members of the Finance and Community Development Committees. I am Finance Commissioner David Frankel. I appreciate greatly the opportunity to be with you this morning to discuss Intro 26-A.

Let me first start by saying I join in the comments of Assistant Director Grathwol and Commissioner Cestero and Commissioner Holloway to come.

I will try not to be repetitive, although there are some aspects of this that are specific to the Department of Finance.

Let me start by saying we must be as aggressive as possible in collecting unpaid funds. I certainly appreciate that the prospect of losing a home or other property is traumatic, that the process must be absolutely fair, and to the extent possible, protect our most vulnerable citizens.

However, our focus must be on the overwhelming majority of New Yorkers who pay their taxes, who pay their charges, who pay their fines. They are the ones suffering because of those that don't pay, in the form of increased taxes or reduction of services.

While we will work with individuals who may be in financial distress, we must be sure to collect the money that city residents depend on to provide their services. We must be mindful that every dollar owed that we choose to consciously forego represents a real choice of not funding some other worthwhile service or raising revenue through taxes or some other source.

As has already been outlined, the lien sale is a critical collection tool for New York City. Over the last 15 years, the sale has been a true success story, as we have collected over $1.5 billion in property-related debts efficiently and relatively quickly, not to mention the billions more from people who paid on time because of the strong enforcement threat.

As the lead agency in conducting the annual lien sale, the Finance Department notices thousands of delinquent properties and then works diligently to whittle that list down by sending multiple notices, publishing and republishing lists of delinquent properties, holding outreach sessions with our sister agencies, before we ever get to the act of selling a lien to the trust.

While we are fully supportive and appreciative of the inclusion of ERP charges as qualifying, the current draft of Intro 26-A creates some significant and unnecessary new challenges for us. It also does not go far enough by failing to qualify other agency charges, such as those assessed by the Health or Buildings Department for unhealthy or unsafe conditions.

As I said earlier, most New Yorkers pay these charges. There should be no hesitation in protecting them by using all of our tools to collect from those who don't pay.

Many of the proposed changes would make our work either harder or require significant new resources. In other aspects, the bill raises serious legal questions. I will outline our issues on both administrative and policy grounds. In doing that, I underscore that we are completely open and anxious to work with Council Members and staff on addressing these issues to fashion a bill on which we can all be proud.

Let me turn to our administrative challenges and the income exemptions. Under the current system, properties that have received certain homeowner property tax exemptions for senior citizens, disabled and those that qualify for what is know as the State Circuit Breaker, are ineligible for the lien sale. This bill extends these exemptions by including all properties with the veterans' exemption as well as some of those seniors with the enhanced STaR exemption.

While we can debate the policy merits of granting full exemptions from the lien sale and from property tax obligations for whole groups of homeowners, I hope the committee will recognize as unworkable a requirement that we split hairs with new income levels for removing properties.

This bill would require that homeowners who get an enhanced STaR exemption are ineligible for the sale, but only if they earn les than one and one half times the senior citizen homeowner's exemption income limits. Enhanced STaR has an income limit of $70,050 and SCHE's limit is $37,400. This bill would force Finance to create a third category where lien sale staff would have to check private personal income documentation and then create a process to verify and audit that information.

While tying benefits to income has obvious merits, the process can be immensely complicated and costly to administer. At Finance, we learned this the hard way when we took over responsibility for the senior citizen rent increase exemption program. We though we could turn SCRE into a fully automated process. We were wrong.

For example, Finance cannot simply data match to discover income. First, our income tax information is tax secret and can only be used for income tax enforcement purposes unless a resident signs a waiver.

Second, when we went to the SCRE population and asked for waivers to review their tax information, we found that most did not file income tax returns since their income was below the threshold. We then had to collect different kinds of income information from the entire group and analyze it separately.

Third, reviewing income information, whether through tax returns or other submitted forms is always problematic since definitions of income differ under different laws. For example, income from SCHE is reduced by some prescribed modifications while enhanced STaR uses federal or state adjusted gross income for all eligible residents in the home with no modifications allowed. It is not clear which of these two definitions, or perhaps a third would be used with respect to Intro 26-A. In any event, it is problematic.

Before taking on SCRE, we had concluded we could administer the program with little or no staff. However, we now have 12 full time employees staffing the program. Many of you are more than familiar with the problems this caused before we cleaned up our act. None of us would like to see that repeated here. The provisions of this bill would create a program that is more complicated and requires more resources than SCRE.

Let me turn to payment plans. The legislation requires that payment plans be created on a means basis which presents the same problems of obtaining, verifying and auditing income information from applicants. That is, Finance would have to create an income formula that would allow those with lower incomes to make smaller down payments to begin a payment plan and collect and verify that income information.

As members of this committee who have been past partners with us in lien sale outreach events already know Finance has traditionally been extremely flexible in providing payment plans to individuals who come forward to settle debts during the notice period. We offer a quarterly payment schedule that is tied to the payment schedule that we have established for the majority of homeowners who remain current on their debts. We also extend these payment plans out for as far as eight years.

The new bill creates a monthly payment system and ten year window for payments, both of which add significant new administrative hurdles. Our state of account, which is a quarterly billing system, has proven fairly effective. Our system would need to be reprogrammed for little added benefit.

Additionally, it appears that under

this draft bill, a property is permanently excluded from the lien sale once the owner has entered into a payment agreement, even if the owner later defaults on that agreement. I am sure that the Council did not intend this result. Our data shows that a high percent of properties that enter into agreements in earlier lien sales are now in default of those agreements. Of the $79 million currently outstanding in the approximately 4,000 open payment plans, some $50 million or 63 percent comes from properties that are in default of their commitment. The law needs to create incentives to keep up with the payment agreements, not default on them.

Turning to new notices and mailing. This bill requires that the Department of Finance send quarterly mailings to all property owners informing them about the lien sale. We estimate that these provisions would require us to produce an additional two million pieces of mail annually, at a cost of at least $1.5 million. Given that 98 percent of property owners pay their taxes on time this is not a sensible use of city resources.

Another challenge to the new

legislation is a requirement to add a 100 day and 120 day notice. Further lengthening the notice period would do little to enhance property owners' awareness and would do nothing in terms of getting people to pay.

Under the lien sale reauthorization law that the Council passed in 2007, the previous 60-day notice was extended to 90 days. However, our data shows that little additional revenue was collected because of the increased time. In fact, 85 percent of the debt is settled in the last 60 days prior to the lien sale, and almost a third settled in the final ten days. The new notices and extended timeframe would add significant cost and delay without any substantial benefit.

Now I'll turn to the certified mailing notice. As I mentioned, Finance already does extensive noticing of those properties eligible for the lien sale.

In fact, by the time the average Class 1 property owner gets their first notice for the lien sale, they must have already received at least 12 statements in the mail. Once the lien sale process starts, the city will contact affected property owners at least three additional times with targeted messages. We send delinquent owners a notice of our intent to sell a lien if they do not resolve their debt within 90 days.

We also publish this list of properties in a local major daily newspaper, place ads in the other daily papers and community papers across the city and post the list on our website. Thirty days later and sixty days before the sale, we send a second notice to owners. Thirty days after that, we send a third notice. Ten days before the sale, we publish an updated list in the newspapers and advertised again. Our website is updated constantly throughout this process.

Only after all of these notices and warnings do we sell a lien for all the properties that have failed to address their debt. Over the past three years, of the approximately 25,000 properties that were initially noticed, on average less than 5,000 had a lien sold. And as John noted, very few of these properties ever go into foreclosure.

An additional unnecessary burden of Intro 26-A is a new requirement that the lien sale notice must also be sent by certified mail with return receipt four months in advance of the sale to anyone with an interest in the property. First, the postage for this alone would range from $250-$500,000. Second, the administrative burden of mailing and matching tens of thousands of return receipts is onerous.

Finally, and perhaps most troublesome, is the possible interpretation under the bill's language that if an owner does not sign the certified return receipt, we would be unable to include the property in the lien sale. I am certain that the Council did not intend to create a provision where evading certified mail sent to your address became another means of evading your financial obligations to the city.

I'll turn now to the defective lien provisions. There are also many questions raised by the language relating to liens being deemed defective at the time of the lien sale, if the owners would have been eligible for a specified exemption even though they never applied for it.

Are applicants required to come in and prove their past or current eligibility for an exemption or both? Is the city required to determine on its own whether a property owner would have received an exemption had the owner made a timely application? What is the lien on a property that is eligible for one of the newly state exemptions were sold and the servicer collected the money from the taxpayer? If the city now going to be required to reverse prior sales of tax liens and refund the trust for the defective liens for an indefinite number of back years? Are the tests for eligibility those that may have existed in the relevant tax year or the current year?

While the bill may not have intended to create these series of complex operational issues, they need to be addressed.

In addition, these provisions, if not amended, will mean that the lien pool is potentially subject to change even after the liens have been sold. When the city declares liens defective after they are sold, the money to make the trust whole comes from the city's own tax levy. We leave it to OMB to calculate how much more this might cost, but warn that it could also drive down the trust payment to the city for the lien pool since a retroactive defect process could contradict the city's representations as to the validity and enforceability of the liens.

The bill also requires Finance to continue playing a role as an intermediary after the lien sale date. Currently, we are out of the process after the lien has been sold and we should remain so. We have serious legal concerns about the city maintaining a mandated role once a lien has been sold.

Simply put, while our ombudsman unit remains helpful when inquiries come to us about properties where liens have already been sold, the remedies we can offer are very limited. We are not and do not want to be privy to payments made or interactions with the servicer subsequent to the sale of the lien. We believe that having more than this arm's length relationship with the servicer is inadvisable from a legal, administrative and cost perspective.

I'll turn now to the statement of account. This bill includes significant new language that would require the statement of account to be used as an enhanced collection tool. There are many issues regarding the statement of account that must be solved before we could efficiently include lien notifications.

We acknowledge that the SOA could be more effective in communicating information to property owners and we have been working to recast the SOA to make it more helpful and understanding. Past changes made before my time have significantly improved the SOA. However, the property tax provisions are so complex that a more simple and understandable summary remains a true challenge.

There are more than one million properties in the city. Last year, we stopped mailing SOAs to property owners who did not owe anything. In other words, it limited SOA mailings only to those properties with outstanding charges. This saves over $800,000 annually. Because property owners with no balance no longer receive a quarterly SOA, fewer than half of the city's homes still receive it. This legislation would require us to give up those savings and more.

In fact, going forward, we are

seeking to expand the use of electronic mailing when owners opt for email over paper documents. These beneficial changes, and others that we have in the works, would be precluded by the new statutory requirement that SOAs get mailed to every property.

Another issue involves the requirement that Finance add disputed charges to the SOA. This provision, while appealing in concept, is quite broad and alarming in scope. First, we interpret the bill's provisions on disputed charges to mean that Finance cannot include disputed charges in determining whether a property has met the dollar threshold to be included in the sale. As you know, many property owners challenge their assessments each year before the Tax Commission or in court. We encourage them to make use of their administrative remedies when they truly believe we have made an error in assessment.

This language would preclude us from including as an eligible charge unpaid property tax that is the subject of a Tax Commission or court protest. This undermines a basic underpinning of tax law. That while taxes may be in dispute, they are still fully payable. It is a longstanding public policy upheld by the courts that delinquent taxpayers must first pay their taxes and then challenge them. Courts have upheld that a dispute about a tax bill does not stop enforcement proceedings. We must remain mindful of that basic obligation of all the city's property owners.

Given the administrative procedures in place for property owners to challenge Finance's assessments, DEP's water bills or other property-related charges, there is no need for Intro 26-A's requirement that Finance create yet another procedure. In fact, an additional tier of review would only cause confusion.

The provisions concerning other agency charges are problematic for other reasons. It creates an incentive for homeowners to frivolously dispute a charge to get out of the lien sale. In addition to the policy challenges, there are significant practical issues in implementing these provisions.

To date, 25 different charges

appear on the statement of account and each agency has a different method of resolving disputes. Tracking changes would require a complete change to the city's billing model which now simply depends on agencies to pass along their charges by address. Given that each agency has its own due process procedures on disputing charges it would be a monumental challenge to track them all.

Now, I'll turn to the costs. This bill creates significant new costs for the city that we estimate at approximately $400,000 on a one-time basis and $3.5 million recurring annually. The most significant one-time cost is the reprogramming of our IT infrastructure.

We know the resources involved in the 2007-2008 reprogramming after the law was last authorized, and this and other mandates additions within this bill lead us to an estimate that we may need four to six months for five full time IT programming staff to get our systems ready for the changes envisioned by this bill. Six months for five IT staff comes at a cost of over $400,000.

Finally, there is an addition to the bill which we believe would be extremely beneficial. Our estimates are that Intro 26-A leaves $56 million on the table this year, along with a recurring $21 million. Most of this is water debt, which Commissioner Holloway will discuss in detail. However, more than $17 million immediately and $3 million in annually recurring collections will be forgone if the bill is not amended to qualify for the lien sale other standalone agency charges. Including such charges is not merely for revenue purposes.

For example, property owners need to know that when the Health Department is forced to cleanup your vacant lot or exterminate in your building to correct unsafe conditions, you will be held accountable. We have specific properties in many of your districts where such debts to the city are going unpaid because we do not now have this power.

This bill already adds similar language with respect to ERP and we respectfully ask that you include the other standalone agency charges when considering changes to the bill.

Everyone recognizes this is a difficult issue. I want to assure you that the

Finance Department will continue to work with individuals who may be in financial distress to find ways for them to meet their obligations. However, our primary focus must be on the vast majority of New Yorkers who pay their taxes, their charges and their fines. It is unfair to penalize them by either increasing their share of the cost of government or reducing their services.

Thank you for the opportunity to share our thoughts. I look forward to your questions.

CHAIRPERSON RECCHIA: Thank you, Commissioner. Before we let DEP testify, I just want to recognize we've been joined by Council Member Leroy Comrie. DEP, and after this we'll take questions.

CASWELL F. HOLLOWAY: Good morning, Chairs Van and Recchia, and members of the committees. I'm Cas Holloway, Commissioner to the New York City Department of Environmental Protection. I appreciate the opportunity to testify on Intro 26-A.

I want to start by expressing my gratitude to Chairman Vann and Chairman Recchia and their staffs, the "Lien Team" as Chairman Recchia referred to it, who have taken the time to meet with me over the past year to discuss water rates, revenue collection and the importance of lien sale reauthorization.

I've heard from you and every community that I've presented to throughout the five boroughs that recent water rate increases have been too steep and that that trend cannot continue. I agree. Reauthorizing, and as I will explain shortly, expanding lien sale authority is absolutely essential to keeping water rates as low as possible.

I also understand, as do my colleagues here at the table, that the authority to initiate a lien sale is a powerful tool and has to be administered carefully and with adequate protections for the most vulnerable New Yorkers who truly may not be able to keep up with their bills, particularly in these tough financial times.

In fact, recognizing this last year, Mayor Bloomberg introduced the water debt assistance program, which Chairman Vann, you stood with us to announce last year, which provided relief for homeowners facing foreclosure by temporarily relieving them of their outstanding water and sewer debt. This successful program alone excluded 533 homeowners from the lien sale process.

In addition to the water debt assistance program, DEP also exempts seniors, disabled and low income homeowners who meet the criteria for the disabled homeowners' exemption and the senior citizens homeowners' exemption and the New York State personal income tax credit circuit breaker. And properties with significant mortgage arrears, in other words, with lis pendens listings, are also excluded.

Taken together, these exemptions excluded more than 3,200 homeowners from the lien sale process, even though they would have qualified based on the amount and duration of their unpaid water bills. That is a significant number of our most vulnerable customers.

Some members of the public and the Council may have the impression that the authority to conduct a lien sale means that the city will take away someone's home. As Chairman Recchia noted at the beginning of this hearing, that is not the case. The vast majority of properties, and that is a very large majority, that start on the lien sale list pay their bill or enter a payment with DEP or the Department of Finance, which means that their liens are never sold.

For example, in 2010, 18,359 properties were lien sale eligible at the start of the process, and after three months of outreach, 87 percent of these properties were removed from the lien sale because the owners either paid the bill in full, entered a payment agreement or their property was removed based on one of the exemptions I just listed. Only 13 percent of liens that started the process were sold, and in terms of foreclosure, since 1997 only 396 occupied tax Class 1 properties have been foreclosed. The figures that John Grathwol presented are also very compelling in terms of the number of these properties that end up in foreclosure.

These numbers show that the lien sale authority is not a meaningful step towards foreclosure. Rather, it is a necessary tool to collect unpaid water bills from New Yorkers who can afford to pay, but don't do so unless compelled. For reasons that may have a lot to do with the history of how the city used to bill for water and sewer service, and I'm going to focus on water because that's my business, a small but persistent group of people do not pay their water bills until they are threatened with the prospect of a lien sale.

Since 2008, DEP has recovered $285 million in delinquent water and sewer payments through the lien sale process. Without lien sale authority, this revenue would have gone uncollected, which would have necessitated higher water rates for everyone else. In fact, we estimate that without lien sale authority, water rates as high as they were, would have been increased by an additional 2.2 percent, or $51 a year, for everyone who pays their bill. That's a tremendous burden for good bill paying customers to bear on behalf of those who can afford to pay but refuse to do so.

Turning to the specifics of Intro 26-A, the fact that the Council is considering this legislation means that we agree on a fundamental point. Those who can afford to pay their water bill should pay, and lien sale authority is necessary to achieve that result. There are elements of the bill which DEP is certainly in favor of. Chairman Recchia, the requirement to publish disputes on DEP's website, we think that's a great idea. We look forward to doing it. We can do it whether it's in legislation or not. But there are elements of the draft bill that undercut that goal and will drive up water rates for the majority of New Yorkers who pay their bills.

My colleagues at OMB, Finance and HPD have already expressed their concerns regarding down payments, notifications, mailing requirements and others, so I won't repeat that here. A significant concern for DEP is that the current bill raises the eligibility thresholds for selling liens on two and three-family homes in tax Class 1 from a delinquency of one year and $1,000 to a delinquency of two years and $2,000.

This change would have dramatic consequences, not just for the vast majority of responsible New Yorkers who pay their bills and who would be stuck with higher water rates because of decreased revenues. It would also harm the distressed homeowners that we all agree need help.

If the two year eligibility threshold were in effect this year, for example, it would reduce the number of lien sale eligible accounts in tax Class 1 from 16,800 to 2,000, and the amount of underlying lien sale eligible debt would drop from $94 million to just $27 million.

The reduction in collections that we project from this change in eligibility criteria translates to an additional rate increase of more than one percent for everyone else who pays their bills. And it 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 they simply did not have to pay.

In addition, if the intent of this provision is to relieve the pressure that unpaid water and sewer bills can create for a homeowner facing financial difficulties, I respectfully suggest that it will have the opposite effect.

That's because delinquent homeowners will simply accumulate more water debt during the second year that they would not be eligible for the lien sale rather than coming to DEP or Finance after a year to pay their bill or enter into a manageable payment plan to do so.

I can give you an illustration of this. Under the proposed legislation, we estimate that the average water and sewer debt of a tax Class 1 property eligible for the lien sale would jump dramatically from about $5,600 today to nearly $8,400 if the threshold is extended to two years and $2,000.

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 $8,400 and true financial distress becomes all but inevitable.

Council Members, in the back and forth that we've had in preparation for this testimony and the preparation of this bill, you've asked some detailed questions about payment plans. I think the answers show a high degree of flexibility that DEP and I'm certain the Department of Finance who in handling individual homeowners in terms of the size of the down payment, making adjustments there, extending the amount of time in terms of defaults. All that information has been submitted and we certainly can submit it again. But there is a lot of flexibility because we understand everyone's personal circumstances are different.

A second serious concern with the bill is the exclusion of single-family homes from lien sale eligibility. Approximately 9,000 single-family homes would qualify for the lien sale based on the criteria that was in place until this year. Right now, DEP's only recourse to get these funds is to threaten water shutoffs. Now, shutting off water is a costly measure and a potential public health risk. And frankly, I want to get DEP out of the business of shutting people's water off.

Last year, we noticed some 18,000

homes that may be eligible for water shutoff, but due to resource constraints, we could only target roughly 3,500 of those homes for enforcement, meaning that we collected very little from 14,500 homes. To actually terminate 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 shutoff.

In Fiscal Year 2010, we served 15-day notices on 3,500 single-family homes and terminated service on only 57 of them. Now, we collected $2.78 million from this group, but we spent $2 million to collect it. That means that the water system only got to keep 28 cents on the dollar.

Terminating service tied up the equivalent of ten full time field staff that otherwise could have performed work in all of your districts. That I've talked I think to everyone on this committee about at one time or another, cleaning catch basins, cleaning sewers, repairing other parts of the system. This is simply not a part of the business that operations should be in. It makes no sense, and particularly in this time of limited resources.

Including single-family homes in the lien sale process is a much fairer and certainly a more economical way to collect unpaid water bills from New Yorkers who can afford to pay. Currently, single-family homeowners who owe $1,000 or more, in other words meet the criteria that is currently in place, total 9,000 rate payers who have accrued over $51 million in water and sewer debt.

Based on past payment patterns, and that's the numbers that I went through, 87 percent of those eligible for lien sale resolve their charges way before the lien sale ever happens. We estimate that we would collect an additional $28.5 million in FY 2011 alone, which is equivalent to about a point on the water rate.

If lien sale authority is not extended to single-family homes, this lost revenue will have to be made up by raising the water rate for everyone else. That's truly a perverse incentive.

Since becoming DEP commissioner in January of last year, I have attended more than a dozen meetings in all five boroughs to explain what DEP is doing. How we're using tremendous resources that we've been entrusted with to carry out DEP's vital mission. We held a dozen meetings throughout 2010 in addition to the meetings I went to, solely making billing representatives and customer service personnel available at the neighborhood level. Chairman Recchia, Chairman Vann, other members of this committee, I think I've seen you at a number of those events, Council Member Koppell. We're going to keep doing that. This year, we're going to go out and make rounds again.

At these meetings, I present to the public and I take questions and people routinely ask me to do three things as Commissioner. The first thing is to continue to provide critical water and sewer services that New Yorkers have rightly come to expect from DEP at the lowest possible cost.

Second is to do everything in our power to make certain that those who can afford to pay their water bill do so, and are not allowed to pass on their water debt to the vast majority of

New Yorkers who pay their bills.

Third is to help those who truly cannot afford to pay their bill now and need assistance.

Reauthorizing and expanding DEP's lien sale authority will accomplish all three of these goals. We know the lien sale process incentivizes people to pay their water bill. Since 2008, the three lien sales have brought in $285 million, ensuring that we can meet our capital commitments and operating needs in serving the nine million people who rely on NYC Water. By expanding lien sale authority to include single-family homes, DEP will have a proven enforcement tool to make sure all homeowners who can afford to pay do so.

Finally, DEP has done much in the last year and will do more in the future to protect those New Yorkers who are the most vulnerable. The simplest and strongest argument for reauthorizing the lien sale and including single-family homes in it is that it will mean a lower rate increase for everyone else, without endangering the most vulnerable, who we can protect through targeted exemptions and the Water Debt Assistance program.

Of course, lien sale authority is only part of the answer to keeping water rates as low as possible, and I understand this. Last year, DEP cut its expense budget by 8 percent for FY 2011 and I'm working on a similar reduction for the next fiscal year. But every dollar we can't collect, and I think people know here we have $11 billion in construction, $3 billion in design, a lot of it mandated projects, so we don't exactly have as much control as I would like over what we're building and when, but we know we have to pay for it.

Every dollar that we can't collect because those who can afford to pay won't, is another dollar that we have to make up from a good bill paying customer who does pay their bills. Every tool we have to avert that outcome and ensure a fair distribution of the cost for our water system is critical. Keeping the current lien sale authority intact and expanding it as I've suggested will maintain one of the most important tools available to us.

Chairman Vann and Recchia, I thank you for the opportunity to testify and I'll happily take any questions that you have.

CHAIRPERSON RECCHIA: Thank you. I want to thank all the commissioners for testifying. We will start with questions. I have to say, Commissioner Cas Holloway, my colleague Jimmy Oddo is cringing right now because when you went through your statement about when you have those town halls you have, the most asked question, I believe the most asked question is why can't you lower our rate. That's very important. That's a great concern to this committee, but we'll go into that. I'm sure my colleagues will have questions about that.

First, I want to start off with John from OMB, I have a question. You stated that the authority to sell the liens on all municipal charges is necessary to encourage payment. Do you have a full list of all of the municipal charges that this would encompass?

JOHN GRATHWOL: Yes, I do.

CHAIRPERSON RECCHIA: I ask this because in order to know this you would have to go through every section of the Administrative Code to capture all of the lienable charges. We asked the Administration for a copy of this, but they did not give it to us. So you have this list?

JOHN GRATHWOL: Let me amend my statement. I have a list of all the municipal charges for which there are balances owed on the Department of Finance's system. So I don't have a list of--

CHAIRPERSON RECCHIA: [interposing] But that's not all the debt. When we looked that, it wasn't all the debt or all the charges.

JOHN GRATHWOL: I have a list of all the charges, but there are municipal charges in the law books for which there are currently no charges on the system. I don't have an inclusive list that covers all of those additional charges.

CHAIRPERSON RECCHIA: We were asking for an inclusive list of all the charges so we could examine this as one total package. So we would like this information.

JOHN GRATHWOL: Correct.

CHAIRPERSON RECCHIA: So if you could get that to us, we would really appreciate it.

JOHN GRATHWOL: Okay.

CHAIRPERSON RECCHIA: My next question is to Cas Holloway, and then I'll turn it over to Al Vann, who has a number of questions.

I'm concerned about the most vulnerable in our communities, you know, the seniors and others, who they struggle day in and day out to make ends meet, to pay their water and sewer services and their other utilities. They have hardships and they have difficulties. Is there something that you could look into? What are you doing to help people that are struggling? Have you come up with ways and different ideas how you could help people who are struggling to pay their water bills?

Also, this would include one-family homes. I know you would like that to be included. Could you just go into that a little bit?

CASWELL F. HOLLOWAY: Sure. First, one of the programs that we put in place last year was the Water Debt Assistance Program which actually suspended debt for water debt. Really there's a certain amount that was suspended permanently for people who, until the sale of the property, until they were able to get back on their feet or until the property was ultimately sold, as long as they entered into a plan to stay current on their bills. Then we have the exemptions that already exist.

But one thing that we've looked into, and I would be happy to provide some additional detail on this is, one that DEP doesn't yet do, which other utilities do and we think could make some sense in this context, is offer a hardship grant program. The questions with a program like that are how do you administer it, who do you offer it to?

We've looked at a lot of potential models for this over the last year. The Home Energy Assistance Program, which is a federally administered program, provides income qualified households grants to help defray their energy charges.

We've talked to HRA about this program and we've modeled it against our customer base and we think that for a fairly modest cost, we would be able to offer a significant grant to income-qualified individuals. That for this program is set at 150 percent of the federal poverty guidelines to a certain maximum. I can provide you details on the way we've modeled this.

CHAIRPERSON RECCHIA: Just give us an example, like for a family of four.

CASWELL F. HOLLOWAY: For a family of four, based on what we've modeled, we think if they were income-qualified, the grant would be as much as $250. Now, the average single-family home cost of a water bill this year is $823. So that's more than 25 percent of their bill.

CHAIRPERSON RECCHIA: You would deduct it?

CASWELL F. HOLLOWAY: That would be a credit on their account. They wouldn't even have to sign up, because we can administer that with HRA. The great thing about this program is, you know, some people say well how does that match up with the population of people who are on the lien sale list versus the population of people who would qualify for the grant?

There is some overlap there. But the fundamental point, I think, of the testimony of all four of us is the facts demonstrate that the majority of people on the lien sale list can pay. Eighty-seven percent of them pay. They won't meet the income qualification.

But if you go to populations that are willing to go and become income qualified, we think that close to 20,000 people could benefit from a grant program like this. That it would be a substantial credit on their bill that they don't even have to sign up for. About 60 percent of the population that ultimately gets these grants is 60 years or older.

We think that if you net out the cost of this program against the revenues that we believe we would be able to bring in by adding single-family homes to the lien sale process, the net, I had said in my testimony, we thought it would be about $28-$29 million. We think this program would cost about $4.5 million, based on certain qualifications. So you'd end up netting about $23 million, which is still close to about a point on the rate that would otherwise have to be collected.

But it would offer significant

relief to the population that we know, based on an objective test, objective qualifications, not because their on a lien sale list, because we actually don't think that's a good indication that people are facing true hardship. We think that most of those people, once they get a lien sale notice, actually pay. I can provide you a lot of detail on this, and we are willing to entertain that idea.

CHAIRPERSON RECCHIA: Would that be in addition to shutting off water, or you would stop shutting off water?

CASWELL F. HOLLOWAY: We would stop shutting off water.

CHAIRPERSON RECCHIA: So nobody would have to worry about getting their water shut off?

CASWELL F. HOLLOWAY: The only circumstances in which water would be shut off, if we were able to include single families in the lien is if infrastructure is actually endangered. What happens, in fact the majority of the leaks that DEP responds to involve private infrastructure, the service line that goes from the pipe to the house. If that breaks and it actually is ripping up the street, then we'd turn off the water. But then somebody comes and fixes that right away.

That would simply be an infrastructure-related shutoff. Otherwise, we would take operations and get them out of the water shutting off business, out of the revenue collection business.

By the way, just for order of magnitude, I said that we spent about $2 million to collect $2.78 million last year through the shutoff process. We estimate that the additional administrative cost to bring single families into the lien sale and administer this hardship grant program would be about $360,000. So, I mean, it is truly a cost effective way to help people who you will have confidence are the people that you want to help.

CHAIRPERSON RECCHIA: If you could get that information to the "Lien Team," headed by Tanisha Edwards, I'd appreciate that.

CASWELL F. HOLLOWAY: Absolutely.

CHAIRPERSON RECCHIA: At this time,

I'll turn it over to my colleague Council Member Al Vann.

CHAIRPERSON VANN: Thank you, Chairman. Good afternoon, again, gentlemen. I appreciate your presence and your testimony. I think the Mayor should be very proud of you guys. You are all working together collaboratively. You've got your testimony together.

You make a very strong pervasive argument in terms of making sure that our city gets all the revenue that they deserve. I think we all support that. We realize that we need money. By your testimony, it seems around, what, 87 percent when you get through with all of our process, you actually get in to pay their debt.

CASWELL F. HOLLOWAY: And that's before the sale.

CHAIRPERSON VANN: Before the sale. That's right, and that's to be commended. So by your numbers, there's another 13 percent that we seem to be really concerned about. As much as I applaud the efforts of those agencies and all that you do to get that money in, I have to be concerned about that 13 percent.

Because in that 13 percent, you find a lot of senior citizens who have paid their dues to this country and we owe them something. In that 13 percent, you find veterans, those who have gone to foreign lands to fight for us, to fight for freedom. In that 13 percent, you find people who are suffering from the recession, high unemployment in many areas of our city, people who are down on their luck, people who did a lot to try and buy the American dream and own a home and could lose it because of circumstances, many beyond their control.

So as much as I admire your zest and intellect and all that you do to make sure we get our revenue and thank you, I would like that same zest and the same energy and the same focus to make sure that poor people and seniors and disabled and veterans do not lose their home, which is a very strong possibility if we don't act some of the reforms that are forthcoming.

You know, there's a mean spiritedness spreading the country now, coming from the extreme right. In the name of reform, we are willing to do nothing for people who are poor.

We are ready to bust unions. It's a mindset that blows my mind in terms of the insensitivity--not with you--of those who would profess the laws that they are trying to pass their various state legislatures and even in the Congress, that would just pretend that poverty does not exist, that poor people do not exist, that working people should not have rights. I'm fearful. That is not your mindset. Let me be clear.

But inadvertently perhaps, because of that which you do well and you should do well, we are overlooking a sensitivity, a heartness, that need to be also there in terms of those who cannot afford to pay at this time. I think we have to make a distinction between those who don't pay and those who cannot afford to pay. I think this is where we lose our sense of balance as far as between you and me.

There are a large number of people who cannot afford to pay at this time. That is where I think government has to bend over backwards and do whatever we can, give them every opportunity so they do not lose their home. Because if they lose their home, it will be an additional charge on the society, going into the homeless shelter and all the other benefits we have to try and bring to people who fall into that position.

Having said that, I have just a few questions and then the other members can ask their questions. OMB, if a property owner is having difficulty with a servicer, is there any recourse on who they can reach out to for help?

JOHN GRATHWOL: They can seek additional help from anybody who they wish.

CHAIRPERSON VANN: You mean they can hire a lawyer?

JOHN GRATHWOL: They can hire a lawyer. They can work with the servicers to enter into a payment plan.

CHAIRPERSON VANN: In other words, the servicer has the complete authority to control that relationship for the most part.

JOHN GRATHWOL: Yes.

CHAIRPERSON VANN: How does the servicer get his or her job, contract?

JOHN GRATHWOL: Every several years, the City, OMB, opens up a request for proposals process and selects among a group of servicers who they think is the best qualified to accomplish the duties of the servicer.

CHAIRPERSON VANN: What is the policy rationale for raising interest rates of properties to 18 percent after the liens are sold?

JOHN GRATHWOL: According to the Local Law passed by the Council, those rates were originally set with the idea that we are dealing with a group of delinquent property owners who are moving into a collection process. These are not property owners who face the interest rates set by Local Law for the property tax or water bill collection prior to sale into the lien process.

CHAIRPERSON VANN: So why is it 18 percent again? I missed that answer.

JOHN GRATHWOL: Well, it's not even a penalty interest rate. There are many property taxes that are at 18 percent. It's a rate set in Local Law by the Council, signed by the Mayor, for interest rate on lien sale collections.

CHAIRPERSON VANN: So you're saying if we want that rate reduced, then the City Council should do it?

JOHN GRATHWOL: No, that's not what I'm saying. Currently, the servicers administer an interest rate that is given to them in Local Law and they follow that Local Law, as you would expect them to do.

CHAIRPERSON VANN: If we want a different interest rate, we should give them a different interest rate.

JOHN GRATHWOL: If the city collectively, the Administration and the City Council decide to change the interest rates, the servicers would be more than happy to employ whatever interest rate we tell them.

CHAIRPERSON VANN: Why did you recommend 18 percent?

JOHN GRATHWOL: I believe that was set in 1996 when I wasn't working here. So personally I didn't recommend it. But I think that the idea is currently property tax rates for homes with less than $200,000 in assessed value, the interest rate is 9 percent. For all other properties in the city, it's 18 percent. So the 18 percent interest rate that is being levied on taxpayers who haven’t paid their tax bills and go into the lien sale is 18 percent, which is just like it is for every other property in the city in the normal collection process prior to the lien sale.

CHAIRPERSON VANN: You got that? I'm not sure that that's valid. I think that to charge an additional fee for those who are having difficultly paying and did not work out a payment plan, is like saying we know you've had difficultly up until this point, and we're going to make sure that you don't have the opportunity to be getting your lien back. That's what it says, realistically, to a person that's struggling to maintain their home. I'm not sure that the answer you gave is actually correct. I'm trying to understand you because it doubles the interest rate from 9 percent to 18 percent. The rationale is that's what was in the Local Law, as I understand it.

JOHN GRATHWOL: Well, for homes under $250,000 in assessed value, the property tax interest rate is 9 percent. For all other properties in the city, the property tax rate is 18 percent. So if you're talking about a single-family home that's delinquent before being sold to the lien sale, the interest rate is 9 percent. When it goes in to the lien sale, it jumps up to 18 percent. But for all the other properties, that doesn't happen.

CHAIRPERSON VANN: Right. Thank you for that information. One of the recurring arguments I heard from most of you, dealing with how complex it would be to administer a lot of the provisions that are called for in the bill. You're suggesting that it's so complex that you may have difficultly complying with the law if it were to become a law. Are you saying that there is nothing that you're dealing with now that requires that degree of complexity? Even carrying out the state property tax law, when you administer that, is that less complex than what is being asked for in this bill?

JOHN GRATHWOL: I think you hit on the one subject that's much more complex than this bill.

CHAIRPERSON VANN: Oh.

JOHN GRATHWOL: I was thinking of mentioning that, but I didn't want to, you know, divert. But that is one thing that is much more complex. But the issue here is that we're dealing with this complicated pool of collateral that we're going to rating agencies and with an investment bank, asking to structure into a bond offering and approve a rating. Then we're trying to sell it to investors. So it's really selling it to the rating agencies and selling it to the investors.

Our current rules are already quite complex. Prior to 2008, we used to offer a complex set of bond offerings that we now do not because the tolerance for the credit markets for complicated asset backed bonds has gone down a lot since 2008.

So it is just true that to the degree we can remove complexity, we will have a better time communicating to rating agencies, getting a rating and selling the bonds.

CHAIRPERSON VANN: I appreciate that. You would prefer a more simplified structure. But you've demonstrated you can handle complex matters. You've handled yourself quite well and I know that you're capable of handling complexity, as you've indicated dealing with state property tax.

I have one last question for OMB. What happens if the city discovers a lien was mistakenly sold? Can it be brought back or who pays for the mistake?

JOHN GRATHWOL: Currently, there are a small number of mistakenly sold liens, which we call defective liens, which are cured and the city pays the trust and brings the lien back. I guess the issue that I raised with regard to that is that when we make a true sale representation in selling liens to the trust, we are saying that to the best of our ability we've done everything we can to identify the valid liens.

I think the problem raised by the retroactive application of eligibility criteria, once we've found out someone is--at the time of our true sale, we will know that there are some lines in there that are invalid. You know, and it does undermine our ability to say at the sale date that we have done everything in our ability to deal with this issue. So, in a sense, we'll have to say we know we're selling some of these liens, we think they might be defective for this specific reason. Rather than, we have done everything we can and short of some mistake, all of these liens are valid. So that's the difference.

CHAIRPERSON VANN: I do understand your problem and the difficultly. My difficulty is what is the value to the city of a person mistakenly losing their home? How do you balance that? I understand what it is you're trying to do, but understand what ought to be your concern as well.

So that if you have to err on one side or the other, the tendency is to err on the side that we must get this revenue and we've got to make sure the bond holders are good about buying these bonds, even if the impact is traumatic and immeasurable on human beings. I think this is where we have to try and strike a balance and do everything we can to safeguard that.

I do understand your problem, but also understand the problem that people face if our system is so exact and does not have the flexibility to provide for the needs of these people, even if it raises a question with some of our bond holders.

CASWELL F. HOLLOWAY: You know, Council Member, I just want to jump in. The Administration, DEP, Finance, HPD and certainly OMB, but we're more on the transaction end of this, are extremely careful and thorough in the identification of the properties that we think are eligible. Before it even gets to the point where--what John's talking about is the point at which you have a pool of liens and you're going out to the market and saying here's my pool of assets. Way before that, long before that, we are looking and scrutinizing this group.

I can tell you, certainly for DEP's part, and I'm sure Finance, we're very conservative. If we think there's a problem, if we think we're wrong, if we think something is defective in what we've put together, we don't include it. So we take very seriously what's at stake here. So I just want to make that point.

CHAIRPERSON VANN: I think all of you do. I did not assume that any of you really were taking all of this for granted and not mindful of the impact. I think it's the policy within you're working with and the regulations that are there which I'm concerned about, which is why we have reform. I think individually you all want to do the right thing, I'm certain. I'm glad to see all of you working together and coming to each other's aid. That makes me feel even better.

Secondly, Department of Finance, currently do you have a mechanism in place to remove someone from the lien sale if they are eligible for a program that would exempt them from that lien sale, but may not be enrolled?

DAVID M. FRANKEL: No.

CHAIRPERSON VANN: You do not. Would you have a problem if we put one in place?

DAVID M. FRANKEL: Yes.

CHAIRPERSON VANN: Why?

DAVID M. FRANKEL: Becoming enrolled in a program envisions a voluntary act on somebody's part. It would be very hard for us, next to impossible for us to go through the potential list of anybody who might be eligible and try to figure out income limitations and everything else.

At some point, getting into a program or doing something else requires a person to take certain steps. Once they take those steps, we will do everything we can to help them. But the idea of going through 25,000 potential properties and seeing who might have been eligible for benefits becomes very hard.

We do this in one particular case, which has to do with the earned income tax credit where we just recently mailed out thousands of pre-filled out income tax returns to people who we felt would be eligible for the credit but never applied for it. But that's the one limited case where we, with all of our data, have found it practicable to actually do that. I think what you're suggesting would be extremely difficult.

CHAIRPERSON VANN: That's interesting. I understand that. I had the impression that you were already doing some of this. That out of the spirit of cooperation and the concern that you have for our citizens that you were already involved in a procedure to do just that. You were identifying people who had not really applied for the exemption but they were qualified.

There are a lot of reasons why that does not occur. Some of our senior citizens suffer from degrees of dementia. There are all kinds of circumstances. These aren't people trying to avoid paying their taxes. These are people who have difficultly and problems and we're trying to help them out.

DAVID M. FRANKEL: I agree.

CHAIRPERSON VANN: You already have a cooperative program going forward. Maybe it's not a perfect one and maybe it needs some support from the Council, which I'm trying to do. But I did not get the impression from you guys that this was something that was maybe complex but not impossible.

DAVID M. FRANKEL: What I'm saying is that our community outreach people will meet with people and will go over their personal situations with them and will recommend that they may be eligible for something. My understanding of what you're talking about is taking a list of 25,000 potential eligible properties and saying we now need to go and investigate each one of these before we decide whether to include them in a lien sale or not and that would be extremely problematic.

CHAIRPERSON VANN: You guys have impressed me with your intellect and professionalism. I can't imagine you can't solve that minor problem. What is the current enrollment of SCHE by the way?

DAVID M. FRANKEL: Of SCHE? Do we have a number? I don't know the number. I'm sorry.

CHAIRPERSON VANN: So you wouldn't know how many property owners would be eligible for that program? You wouldn't have any gauge for that?

DAVID M. FRANKEL: You mean who are eligible for the program?

CHAIRPERSON VANN: Right.

DAVID M. FRANKEL: I don't know the number. I certainly don't know the number of properties who would be eligible.

CHAIRPERSON VANN: The number that's currently enrolled, does anybody have that number?

DAVID M. FRANKEL: We can get you that.

CHAIRPERSON VANN: That would be good. Sure, go right ahead.

CHAIRPERSON RECCHIA: Just to follow up what Al Vann was saying. So in other words, Commissioner Frankel, what you're saying here is it's not your job to try to find out who qualifies for this exemption, that exemption, or who the city could help? My job is just to collect the money and I don't care? That's what you're saying.

DAVID M. FRANKEL: I think that's a really unfair characterization of what my testimony was, Council Member Recchia.

CHAIRPERSON RECCHIA: That's what you're just saying. The Council Member made it very clear what programs do you have and you say we have to investigate 25,000 properties to see if they qualify. You make it sound like investigate, you have to hire teams. This could be done very simply. Going out there and doing outreach to these properties and telling them what they're qualifying for.

You know, who's going to do? It seems like everything is coming to you. They transferred SCRE to you, SCHE, everything is coming to you for collections. Council Members are getting very scared because who is going to be out there telling these people what they're qualified for, what exemptions they could get, what property exemption, what DEP exemptions

There has to be somebody who's going to take the lead on this. You're collecting everything. DEP is going out there trying to come up with the solutions. I know HPD goes out and they have these workshops for communities. I think the Department of Finance has to get onboard with something.

DAVID M. FRANKEL: We already do that.

CHAIRPERSON RECCHIA: You just said you don't do that.

DAVID M. FRANKEL: No, I didn't say I didn't do that. We do reach out in all the communities. What I said was that the idea of taking 25,000 individual lien properties and making a determination individually on whether each one of those would qualify for an exemption is extremely problematic. I didn't say we don't do outreach. We want everybody who is qualified for an exemption to get it. So we do this outreach and we do try to work with both Council Members and other elected officials and other groups to make people as aware as possible as to what the potential exemptions are.

CHAIRPERSON RECCHIA: DEP last year sent out a notice to all property owners asking them if they think they qualify for all these different programs. They got back a response. By that response, they were able to pull back properties from lien sales. So if DEP could do it, I think the Department of Finance could certainly do it.

DAVID M. FRANKEL: I keep on saying that we go out and we meet in the community. We send notice to people. We try to get people into whatever programs we possibly can. But what I will say, again, is I can't be responsible for taking 25,000 potential applicants and going through and reaching out and asking them for all their income applications. Every year, we send out an annual notice of ever exemption that you might qualify for. That's what we do.

CHAIRPERSON RECCHIA: Do you have a copy of that? Could you send it to us?

DAVID M. FRANKEL: Sure.

CHAIRPERSON RECCHIA: Sent it to Tanisha Edwards?

DAVID M. FRANKEL: Absolutely.

CHAIRPERSON RECCHIA: I have colleagues who want to ask questions. They have to move on. There are many hearings today. We're going to start off with Council Member Lew Fidler. I just want every Council Member to keep in mind that we have to be out of here by 1:00 and we have like six Council Members to ask questions and then Council Member Al Vann and I will follow up. Council Member Lew Fidler?

COUNCIL MEMBER FIDLER: Thank you, Mr. Chairman. I have to be out of here at 11:30, so I'll try and be really brief. First, I want to say and you actually raised the issue, the Finance Department and DEP have done many, many outreach efforts in my district. I know we're doing another one on Tuesday at a senior citizen.

They've been terrific. I want to start by thanking both commissioners for that, because I can't tell you how many of my constituents have received benefits and worked out water bill problems because you've come to my neighborhood. So I do appreciate it.

CASWELL F. HOLLOWAY: Council Member, I just wanted to jump in because I want to make sure that there is clarity here. Finance and DEP work very closely together on all the stuff that we do. I think that we want to make sure that we're all talking about the same thing in terms of the level. We don't do testing of everybody. Our own internal testing of everybody who might be eligible for an exemption, we and Finance let people know what those potential exemptions are and we want them to come and tell us. I can tell you, we do these events together. We share best practices. So I want to make sure we're getting full credit for the amount of outreach that's actually happening out there.

COUNCIL MEMBER FIDLER: In my district, I give you both full credit. I think you've been an enormous resource and I want to start by saying thank you. Now, Commissioner, I'm not going to be so appreciative. You'll notice that my name is not one of the many, many sponsors on this bill. It's not because I don't recognize the important issue of collecting all revenue from people who can pay and protecting those who can't. I think Chairman Vann put it perfectly. There's a balance to be struck here.

I remember in 2007, which may have been prior to your watch, I'm not sure. When we passed the water lien authorization, this Council was promised that water rates would not be going up immediately. Now, next to snow removal and pot holes, my office hears more about the water rates than any other thing. People do not understand. They constantly think the City Council is raising this revenue, raising their rates, nickel and diming, drip, drip, drip money out of their pocket. It seems that every bill they get there's another rate increase. That's the way it appears to my constituents.

I will say to you that in your various testimonies, I heard the numbers $285 million and I heard the number $300 million that has been generated from standalone water lien legislation. During that same period of time, the Water Board has paid to the General Fund probably about $350 million or $360 million in rent. Yet, we continue to have this nontransparent tax that no one is voting for.

You addressed the relationship between water lien sales and water rates a number of times in your testimony. I'd like to know right now, Commissioner, if we passed this bill, what can I tell my constituents? Do you have another water rate increase coming down the pike in the next couple of weeks? Or is enough enough?

CASWELL F. HOLLOWAY: Well, a lot of issues there. First, in terms of transparency, I just want to point out one of the things we've focused on, certainly in the last 14 months, is being a lot more transparent about exactly what DEP uses its revenues to do. If you go onto our website, www.nyc.gov/dep, there is a presentation that I gave in all five boroughs and to the Water Board that explains cost by cost exactly what last year's water rate was based on.

The projected increase last year

was 14.3 percent. We initiated an immediate across the board 8 percent expense budget cut. That rate increase came in at 12.9 percent. The latest public projection and we have to do this project in our offering statements is that the potential increase for the coming year would 9.8 percent.

Now, it was initially projected when we made the rate increase last year at 12.9 percent. We're doing another 8 percent budget cut. So we've gone from 12.9 to 9.8 in the published forecast. I can tell you as Commissioner, every single day I am working to make sure that whatever the increase will be, it is going to be as low as possible. Having this authority, certainly is going to help us to get as low as possible.

Now, I think it is important, between 2007 and now, to understand exactly some of the reasons why that rate has had to go up. You made reference to the $330 million to the city. We've done a comprehensive rate study of 56 jurisdictions in this country. There's like a 5 percent payment that's called this rental payment.

It's an intergovernmental payment to the City of New York. It's actually below the average that every major utility in the country pays to the municipal government as an intergovernmental charge. Even if you take--

COUNCIL MEMBER FIDLER: [interposing] In other municipalities, the water is not necessarily a government entity, right? So it would be a private enterprise. So that wouldn't make it intergovernmental right?

CASWELL F. HOLLOWAY: Many of them are public. There's public and private. I'm saying across the 56, for all the 56 largest municipalities in this country, New York City's payment is below average.

The reason that water rates have gone up as much as they have in the last three years is because right now we have $11 billion in construction and $3 billion in design. Most of those are projects that are currently in construction that are mandated by the federal government.

For example, we have a $3 billion filtration plant in the Bronx that I know people are well aware of. That is mandated to be completed by 2013. At the same time, by the same year, we have to complete a $2 billion ultra violet disinfection plant in Kensico. We also have to complete, basically by 2013, a $5 billion reconstruction of the Newtown Creek wastewater treatment plant.

This is because judges in federal courts have told us that we have to do these projects on these timelines because the enforcement mentality at the regulator level is we don't really care about the big picture, what we care about is what are the 50 milestones that you have to hit and the dates that you're going to hit them on.

Now, the good news is, as bad as that is, we are projecting that the percentage of the city's capital program for DEP that's going to be government mandated is going to drop going forward from what was like 79 percent to 34 percent. I've gone to Washington three times in this year alone to meet with EPA. I've gone to Albany many times.

The green infrastructure plan that

the Mayor proposed in September of last year would save $2.4 billion in DEP costs over the next 20 years if we can get DEC and EPA to agree that we can do green infrastructure and the gray tanks and tunnels that you would put underground. So another mandated project we're about to cut the ribbon on is a half billion dollar, 50 million gallon tank, in Paerdegat Basin in Brooklyn.

COUNCIL MEMBER FIDLER: I think I'm familiar with that.

CASWELL F. HOLLOWAY: We're doing a level of construction right now--

CHAIRPERSON RECCHIA: [interposing] Commissioner, can we just get back to the lien sales.

CASWELL F. HOLLOWAY: Sure.

CHAIRPERSON RECCHIA: We don't need to hear about DEP's doings. Let's save it for some other day.

COUNCIL MEMBER FIDLER: I guess we can say damn the activist judges, right. But the fact of the matter is this is an issue. But I guess I'm just venting a grudge that I'm holding from 2007 when I felt that we were lied to by the

Administration about water rates.

The fact of the matter is the constituents complain to me. They complain to my colleagues. I think what you've just told us that we can expect a 10 percent water rate increase this year. I think you're assuming that we're going to extend the authorization when we do that. That's very bad news to taxpayers in the City of New York.

I hear your theory but I don't really accept the rent payment issue as an intergovernmental payment that's necessary. Every penny that goes to that rent payment is, in fact, a tax to the General Fund that no one here is getting to vote on. It's a tax that's under the control of the New York City Water Board and the Administration. It's got to end.

I have just one other quick thing. Commissioner Frankel, I didn't understand some of the numbers that you gave us on the defaults and payment plans. Are you saying that 63 percent of those who enter into a payment plan default?

DAVID M. FRANKEL: Yes.

COUNCIL MEMBER FIDLER: So wouldn’t

that be an indication that Council Member Vann may be correct that a means test would make some sense? I mean you don't want anyone to default, right? You want to enter into a payment plan that people are going to be able to meet so that you don't have to monitor defaults. So you can accept the payments as they go, right?

DAVID M. FRANKEL: Right. Those payment plans already stretch out over eight years. I mean the answer is, right, I would love to have everybody fulfill their payment plan.

COUNCIL MEMBER FIDLER: When someone approaches you for a payment plan, do you have the kind of dialogue that your field representatives have engaged in with my constituents to make sure before they enter into the payment plan that they were eligible for every exemption and benefit that they could possibly have?

DAVID M. FRANKEL: Yes. Let me say this: the answer is yes, I hope that happens in every conversation. I can't guarantee it happens in every conversation but that's what's supposed to happen.

COUNCIL MEMBER FIDLER: Would you have a problem if this legislation mandated that it happen in every conversation?

DAVID M. FRANKEL: I mean other than a general objection about mandating things like that I mean.

COUNCIL MEMBER FIDLER: I mean, come on, Commissioner, you've just told me that you hope it happens, you think it happens. I understand there are many requirements in this bill, like the certified mail thing, that in the practical world don't make sense and aren't, I don't think, good ideas. But you just said this is something you hope you're doing anyway. I would think if your staff knew that they had to, they would make sure they did it. Maybe you'd have fewer defaults and we'd have fewer matters going into the program.

DAVID M. FRANKEL: It could be. I just will tell you that I have a general--I hear what you're saying and I certainly agree with the spirit of what you're saying. The idea that we would be violating a law by someone either forgetting or deliberately not having that conversation troubles me.

COUNCIL MEMBER FIDLER: It would trouble me more that they went into default on a payment plan and had to have the lien sold. So, again, we're striking a balance here, Commissioner. You've got to come part of the way here. I think that's an extremely reasonable thing in terms of a mandate upon your agency that probably shouldn’t cost you any money because you're already engaging the constituent in the conversation about the payment plan.

DAVID M. FRANKEL: I'm trying to work with you. I agree with you in spirit. I'm not crazy about the mandating, but it's not something that we would jump up and down about it.

COUNCIL MEMBER FIDLER: Well, if the spirit is willing, we just have to get the flesh there.

CHAIRPERSON RECCHIA: Thank you very much. Council Member Diana Reyna is next.

COUNCIL MEMBER REYNA: Thank you. Thank you, Mr. Chairs. I just wanted to also just echo my appreciation to both agencies. All three agencies actually, HPD as well as DEP and the

Department of Finance, because we've had the one-on-one counseling and presentations of not just benefits but the opportunity for one-to-one assistance in making sure that if any homeowner/tenant in combination or separate is in need of any assistance, that we were able to do that at a very local level.

We tried to accomplish that two times a year. I wish we could do it every other month or even possibly every month. But the amount of work that goes into it doesn't begin to express how interagency cooperation is the number one reason why they function. I look forward to further of those counseling opportunities for my constituency base.

At the moment, I want to just understand, and this question is more related to HPD. Commissioner Cestero, I want to congratulate you and thank you for your years of service in government. Hopefully we get an understanding as to moving forward your ability to leave the agency with an oversight mechanism that will allow us to deal with the HDFCs of the City of New York. Recognizing, not that this is any news to you or the agency, that these are the most, if not the only, affordable units out there that exist today. Preserving them is so critical.

At the moment in City Limits magazine, a studio in Williamsburg is costing $2,300, from a time ten years ago when it was just costing $500. It is just astronomical to think that a market can drive housing expenses to the point where ten-fold is the expense today in comparison to ten years ago. We're considered to be the most expensive town in the Borough of Brooklyn.

So I want to just express to you how I am concerned moving forward. You're almost the institutional memory behind a lot of the discussions we've had in the past concerning oversight. I know you've had difficulties in trying to see how you can provide oversight. What's going to continue to happen is that the lien sales of the HDFCs are just going to grow. They're not going to decline.

I do want to deal with the ERPs and we're, as a local legislator, trying to do one-on-one outreach to these property owners, whether they're on the HDFC list or the ERP list. I have 24 properties in the HDFC qualifying for liens, and I have 13 qualifying for ERPs. If you can just give me your comment on the oversight manner in which HPD will now take into effect any policy, any staffing, any new protocols, but addressing it once and for all.

RAFAEL E. CESTERO: Sure. I appreciate the question. Council Member, as you know, this has been one of the biggest issues that we've focused on at HPD over the last several years. One of the very first things that I did when I came back to HPD as commissioner was create, for the first time ever in HPD, a Department of Asset Management, led by Deputy Commissioner Anne-Marie Hendrickson, who is here.

She has put together a terrific team of people who, for the first time ever, are performing the kind of regulatory oversight that you speak about, across all 300,000 units that City of New York has invested in over the last 30-35 years.

As you know, HPD has been one of the primary vehicles for helping properties be renovated, brought up to standard, returning in rem stock that was taken during the 70s and 80s back to neighborhoods and back to affordable housing. We needed to get up to speed quickly on our regulatory oversight so that we can do the kind of review that's necessary to understand what's happening in properties that are showing some kind of physical or financial distress.

So Anne-Marie and her team have put together an extensive protocol for how we are going to reach out to HDFCs that are showing financial arrears. As you know, this piece of legislation provides for a one-year period before the HDFC would actually come into the lien sale. We think that's a smart thing. We think that's a way for us to notify the HDFCs that their municipal arrears are due but give them a year to work with us so that we can look at ways in which we can put the resources that we have within our control at our agency to bear to help resolve the financial difficulties that those HDFCs have.

One other point that I would make on this, and I think it's really important, is that many of these HDFCs, we have had some role in over the last 35 years and we know who they are and we know them and we work with them on a day in and day out basis. Some of them we don't. Fully one-third of these are HDFCs that were created in the private market that we don't have any other regulatory oversight over at all.

This bill, providing us the trigger in the lien sale gives us the ability to bring those folks in and have a conversation with them and understand what's going on in their buildings.

COUNCIL MEMBER REYNA: I appreciate your forthcoming on your endeavor in creating the department and Anne-Marie has been very diligent in just taking on specific dialogue, especially with local neighborhood preservation corporations that are coming forward and just expressing some of the on the ground feel for what's happening.

I want to just make note that the restrictive sale agreements that we once upon a time spoke of is something that we have to begin again reigniting, as far as making sure that we're preserving the HDFC co-op sales. I know that the co-ops have been removed from the list, which is very appreciative, but we still have that oversight mechanism missing.

My last comment, I'm one of the co-sponsors of this particular bill, but I'm concerned with a lot of what has been mentioned regarding the cost of the return that is so little in trying to impose a lot of this, so the fiscal impact. I know there were some numbers being thrown around by each department of how much this is going to cost.

What are some of the recommendations that you see as a department trying to balance and reduce the cost of trying to work with the Council in implementing this type of legislation?

JOHN GRATHWOL: I think that I'd be happy to share with you and your staff how we got the cost estimates that I talked about earlier today. I think it would be fair to say the Administration is very interested in working with you to address these concerns that have been raised by some of the proposals in the bill that we find difficult. I'm sure if we put our minds together we can find ways of addressing those concerns that do not create some of the problems we have with these specific proposals.

COUNCIL MEMBER REYNA: I look forward to those discussions, Mr. Chair, both committees. Thank you very much.

CHAIRPERSON RECCHIA: Thank you, Council Member Diana Reyna. Council Member Brewer is next.

COUNCIL MEMBER BREWER: I, of course, second the HDFC issue. Unfortunately, I have that list that you're not supposed to have anything to do with, but we'll keep talking about it. I should know this, but Council Member Vann mentioned that a certain percentage you have that you can't collect from. How many of those, particularly the single-family, have mortgages or don't have mortgages? Is everybody's mortgage paid off?

JOHN GRATHWOL: I'm not quite sure what numbers we're talking about.

COUNCIL MEMBER BREWER: We understand that there's a certain percentage that you can't collect from. Council Member Vann mentioned it and you've mentioned it, you can't collect the property taxes.

JOHN GRATHWOL: Property tax is 98 percent of the properties pay their property taxes.

COUNCIL MEMBER BREWER: Those who don't and those who we're concerned about in terms of the potential lien, we're trying to think of the percentage of people who could be hurt because they're going to lose their property one way or another. It could be property, it could be water. Many times the person who holds the mortgage ends up paying some of these bills. I'm just wondering if there is any correlation between the two.

JOHN GRATHWOL: I don't know the answer to that question.

COUNCIL MEMBER BREWER: So we don't know, of those who are potentially in this lien pool, some of the HDFCs, the single-families, et cetera, or the seniors. Do any of these properties, are they mortgaged or are they free of a mortgage?

JOHN GRATHWOL: I don't know. I mean I assume some of them are mortgaged although the mortgager would generally pay your taxes to make sure that a lien is not put against the property. So that would be the first thing that may put the property into default if the person is not paying on their mortgage. Then you'd have a different issue with the mortgager.

COUNCIL MEMBER BREWER: The reason I mention that is because if you're in the home and you're dealing with a mortgage company and you're dealing with the property tax issue and you have dementia, you definitely are not able to put all the pieces together.

JOHN GRATHWOL: I completely appreciate that. But if you have a mortgage, then generally your mortgager is going to pay those taxes and liens for you. As I said, you may wind up in a different situation with the fact that you may not be able to pay the debt service on your mortgage.

COUNCIL MEMBER BREWER: So mainly the people we're dealing with perhaps do not have a mortgage, it's already paid off or you don't know?

JOHN GRATHWOL: That's my guess, but I can't give you an answer.

COUNCIL MEMBER BREWER: It has some

relevance I think to the discussion. The other question I have is the website for the Department of Finance; do you ever do focus groups for it? Because when you go there, it is hard, particularly if you're not savvy, to actually see the word property tax information is here, as opposed to some of the other toggles that you have. Has anybody ever done some focus groups on that?

DAVID M. FRANKEL: We haven’t done specific focus groups, although we've reached out to a lot of people. I happen to agree with you that our website is not as user friendly.

COUNCIL MEMBER BREWER: I just used it again, and it takes a little bit of ingenuity to get to my block and lot, which I don't know. So you go to the address. By the way, the address thing isn't working right now.

DAVID M. FRANKEL: That's just a terrific--

CHAIRPERSON RECCHIA: [interposing] Word of advice, Commissioner, if I was you, I would sit down with Council Member Brewer. She can be very, very helpful.

COUNCIL MEMBER BREWER: My last question is sometimes just regular old organizing works, particularly for the HDFCs. The issue there would be to try to. I know that your Asset Management does a great job at HPD, but just plain old bringing them in, even before any year is up, because all of them need a lot of assistance. Thank you very much. I'll let it go at that.

CHAIRPERSON RECCHIA: I just follow up on one thing. This City Council has met with the powers to be and DEP and other people. We are trying so hard to get banks to work with us because banks collect the taxes for people that have mortgages. We would love for the banks to collect the water charge. DEP is willing to work with us, but it's the banks that are not being cooperative. So I just want you to know we are looking into that.

If the banks could collect the water charges, like they collect the tax, I believe that could save us a lot of money. So we are looking into that, Council Member Brewer. Leroy Comrie is next.

CASWELL F. HOLLOWAY: That actually

happened, I believe.

CHAIRPERSON RECCHIA: Years ago.

CASWELL F. HOLLOWAY: Now it's the variability of the charge that creates the biggest issue, is our understanding, but we're certainly willing to work with you on it.

CHAIRPERSON RECCHIA: Thank you. Council Member Leroy Comrie?

COUNCIL MEMBER COMRIE: Thank you, Mr. Chair. Why doesn't DEP take Visa online?

CASWELL F. HOLLOWAY: Don't we offer credit card?

COUNCIL MEMBER COMRIE: Why is Visa the only credit card that's not being taken online by DEP?

CASWELL F. HOLLOWAY: If we're not offering Visa, I'll find out the reason.

COUNCIL MEMBER COMRIE: Finance and parking violations and every other agency is offering.

CASWELL F. HOLLOWAY: I will get the reason and get back to you. If there's anything we can do about it, we will.

COUNCIL MEMBER COMRIE: Okay.

DAVID M. FRANKEL: Let me just make one comment in answer to that.

COUNCIL MEMBER COMRIE: Okay.

DAVID M. FRANKEL: The Mayor has put forward a program to really consolidate all these collection agencies. Finance is actually responsible for that program. One of the things that you're pointing out is that we have many agencies that have different policies about credit cards and other things. We think there should be a centralized function to that where we can do it with best practices and everything else and we'd accept whatever credit cards make sense. I mean it depends on what the fees that they charge are and you negotiate those fees.

At some point in the next year or two, we hope that this is all a centralized function and you wouldn't have to ask that question of every agency, you could just ask it of us.

COUNCIL MEMBER COMRIE: When you go online now to pay your water bill and you go in the pay your bill section, for whatever reason that's not an option. It also doesn't give you the opportunity to get the discount if you don't have that option. I don't understand why the option is only tied into the checking for the deduction for the rate on the water bill as opposed to doing an automatic deduction.

I think that's another thing. Most people are used to doing the automatic deduction now. When I do pay my bills, I do pay them online most of the time. I was surprised when I went to pay my water bill the other day. I want to thank the staff for chasing me down to make sure I paid it before today's meeting.

CASWELL F. HOLLOWAY: Thank you.

COUNCIL MEMBER COMRIE: I just want to say that your DEP outreach staff has been admirable. I have been doing the meetings even before I got elected, having the community meetings to have both DEP and Finance come out to the local center and to churches in the district. Not everybody has internet access, so we can do even more outreach. I was just confused as to why that's not being offered. I hope that that is cleaned up.

I don't understand why any bank or

any credit card agency would refuse the City of New York's entrees to get a fair and reasonable rate to get to do business with New York City residents. So I would hope that those issues could be cleaned up.

CASWELL F. HOLLOWAY: We'd love to use you to negotiate our credit card contracts.

COUNCIL MEMBER COMRIE: I'll be happy to come and do that. I just have a question on some of these rates. It looks like most of the average liens run about $4,000 to $7,000. How long a period is that over for the average lien rates on most of the properties? Sorry, let me re-ask the question, because I just got told these are our numbers that we developed.

Your average lien number that you're going to do on when you're getting ready to put to lien sale is what number? What approximate number?

JOHN GRATHWOL: I don't know what the number is for property taxes, but we can get that for you.

CASWELL F. HOLLOWAY: For water, it's about just over $5,000.

COUNCIL MEMBER COMRIE: $5,000. That's over a one-year period or a two-year period?

CASWELL F. HOLLOWAY: That's for one year and more than $1,000.

COUNCIL MEMBER COMRIE: I didn't understand the objection from going from $1,000 number to a $2,000 number when you talked about the ability of the city before they enacted a lien rate. If the average is $5,000, I don't understand the concern.

CASWELL F. HOLLOWAY: Two things. The proposal that's in the draft is $2,000 and two years. So the additional time means that first and immediately, right now there are about 16,000 properties that are eligible for the lien sale. That would drop to 2,000 because most of those would age for another year. During that year, whatever their debt is, whether it's $1,001 or $5,000, we believe that it's just going to continue to accrue because you've basically taken away the incentive for the person to come in say I want to work with DEP or Finance to address this problem, enter into a payment plan, find out if

I'm eligible for any exemptions. We totally agree with doing increased outreach.

So the issue is any threshold that increases the amount of debt and certainly increases the amount of time, we think ultimately will make it less likely that someone will be able to come and enter into a successful payment plan with us and get started on dealing with this.

When you look at some of the specifics, and we have a lot of data on the number of payment plans and the way we work it out, sometimes people start with a down payment that's as low as 10 percent. What we want is incentives for people to come in as soon as possible and either pay, because 87 percent pay before the sale, or tell us what's going on, work with us to put a plan in place or find out if they qualify for an exemption.

COUNCIL MEMBER COMRIE: You said you have multiple opportunities for people for exemptions. How is that promulgated among your staff or to the public so that they can know what those options are? Most of the times when a person has a water lien, they're also in general debt and in foreclosure debt. If it's not foreclosure debt, then they're in a problem with their bills across the board. So what is being done to incentivize them to pay and how is that outreach being promulgated among your staff so that they can be aware of it? That would be both to Finance and DEP.

CASWELL F. HOLLOWAY: Both of our agencies, and we do a lot of these together. I mean we do a lot of outreach throughout the year, leading up, and this isn't just because there's a lien sale coming. We sit with customer service representatives and we resolve problems right there in communities. But at the time of the year that the lien sale starts, certainly we send out notifications and we let people know what exemptions are available and we encourage them to get in touch with us so that we can get them qualified.

I mean from my perspective, if somebody is eligible for an exemption, we want them to get it. One of the questions that Council Member Reyna asked was what are some of the issue that we have a problem with, and when you look at things like the 120 days versus the 90 days, we think on balance that most people come in between 60 and zero, and a third of them come in between day ten and day zero. So that extra 30 days way out there just starts this process earlier but it's not really going to have a measurable impact on people.

What we need is targeted outreach to people as this process works through. I think what Commissioner Frankel described was what DEP does as well, continuous updating of lists and outreach targeted to these families to say come in, pay your bill or work with us.

COUNCIL MEMBER COMRIE: Is there early payment incentives or just other incentives to give people an opportunity to get their bills covered? Are you waiving interest or accruals or is that a possibility?

DAVID M. FRANKEL: There are incentives to pay your property taxes early.

COUNCIL MEMBER COMRIE: Right.

DAVID M. FRANKEL: But not for delinquent property tax owners to come in and get a deal at that point. When you think about what we're talking about, we're talking about for the most--look, I appreciate that. What we're mainly focused on here is the most vulnerable of our society. But the lien sale itself essentially forces a lot of people who should have paid, who could have paid to pay. That's the vast majority of the 25,000 properties that get noticed for the lien sale. That's the ownership that we're talking about.

Then with respect to others, when you come into the lien sale, when you work out a payment plan with us, we don't waive penalties and interest, but as I said, we will stretch a payment plan out over eight years. We will work on what the down payment should be. Even then, as I point out, there are a lot that go into default.

As some point, people need to pay what they owe, at some point. We could stretch that out for as long as we possibly can, but I don't have the authority to waive the requirement that someone pay their property tax or their water lien. I suggest that I shouldn’t have that authority and I'm glad I don't have that authority. It would be easily abused if someone had that authority.

But we will work with anybody to the best of our ability to give them the most affordable plan. There are times when it turns out that somebody simply can't and we understand that.

COUNCIL MEMBER COMRIE: Okay. Thank you. Did you want to say something? It seemed like you did. Thank you, Mr. Chair.

CHAIRPERSON RECCHIA: Thank you. As I sit here and I hear Commissioner Frankel, you testify about people paying. You said the magic word: could have paid, should have paid. I think a lot of people, if they could, they would really pay. Obviously there are many times that people are having trouble paying.

So when they come in, what do you take into consideration to figure out a payment plan?

DAVID M. FRANKEL: Let me repeat again, that the vast majority of people who are noticed for the lien sale come in and pay what they owe. They are mostly people who have been trying to put off for as long as possible paying their obligations.

With respect to the people who are in financial distress, we will come in and we will talk to them about what they can afford, what they can't afford. We will talk to them about what we can possibly offer them. We will stretch that out for a long as we possibly can. We will work with them on what an appropriate down payment is.

With respect, we are as concerned, I believe we are as concerned about those people as the members of the Council.

CHAIRPERSON RECCHIA: Where does it state what you take into consideration when you're trying to determine a payment plan? So if someone was to go on your website, where would they see everything that you said? We couldn't find it.

DAVID M. FRANKEL: You won't find it on the website.

CHAIRPERSON RECCHIA: I think that's important for people to know that you're willing to take into consideration that you work out a payment plan. And when you do, that you will take into consideration how much money they're making, what kind of financial distress they're in, what problems they're having, maybe medical problems they're having and so forth. I think that's the problem. People out there are not aware that they could come in and that you're willing to help them with this payment plan. Nowhere could we find it in the rules exactly what it was. Like, how much you have to put for a down payment.

According to my research, you always take 10 percent or 15 percent down payment?

DAVID M. FRANKEL: That's probably accurate, yes.

CHAIRPERSON RECCHIA: I think that's where we have to really look into this. If someone is in distress and having problems, maybe the down payment should be less and we could work with them. I just feel that it's so stringent, the 10 or 15 percent, that if we would just adjust that we could really make this work.

DAVID M. FRANKEL: I appreciate your ideas and I'm happy to talk to you about them. You're right, it does not appear anywhere on our website. I have some concerns but that but I hear what you're saying.

CHAIRPERSON RECCHIA: Or in the rules. So we would have to work on that with you to figure it out.

DAVID M. FRANKEL: Fine.

CHAIRPERSON RECCHIA: Okay.

DAVID M. FRANKEL: I'm told that at times we offer a zero percent down payment.

CHAIRPERSON RECCHIA: What times are those? My constituents want to know.

DAVID M. FRANKEL: We'll get back to you with a discussion.

CHAIRPERSON RECCHIA: Al Vann wants to jump in. Go ahead, Al.

CHAIRPERSON VANN: We're going to close out. Thank you very much, Chairman Recchia. First of all, I want to thank all of your gentlemen from coming and your time. You testimony has been very, very helpful.

I would like to close by indicting that, as you indicated, the lien sale is an important mechanism of getting people to pay. I understand that. I would admit that probably in that process, those who pay in the very end, other than a handful that may know how to game the system, are people who can't afford to pay and they pay at the end because they're robbing Peter to pay Paul. I would suggest to you that these are the people that become imperiled to the predatory lenders. I would remind you it's the predatory lending, along with Wall Street greed that led to the greatest financial crisis since the Great Depression.

I would also remind you that the complexity that you speak of, I'm not buying it. I know you can handle that. I've listened to you guys. I know you can handle the complexity of administering whatever reform may come out of this legislation. You're already doing it with the state property tax and you admitted that.

I would remind you that the outreach that you talked about and you're doing a good job with, a lot of that came about as a result of Council Members and the community bringing you into play and it got good to you and that's good. From that, payment systems and other things, you've made some changes already within your regulatory system, it came from the experience. We applaud that. We think that that is good.

I do not buy the argument and I really take issue with the argument that if this small group that's not paying is going to cost the good paying citizens. They're going to have to pick up that slack. You tried to build that schism there. We're not going to go for that schism. Again, those who cannot afford to pay and have a problem, these are the people we have to work with and I know that we will.

As long as we make that distinction between those who can't and those that won't, I think we will be okay.

Having said all of that, I want to again thank you very much. I'm sure we'll continue to work together so that you'll be supportive of this legislation. Thank you, gentlemen.

CHAIRPERSON RECCHIA: I want to introduce Melissa Mark-Viverito. Before you guys go, I just want to say one thing. I just want to thank Rafael Cestero. I think this is the last hearing. No, we have the budget hearing in March. I just want to thank you. John Grathwol, thank you, from OMB. It's very rare we get OMB to come to the table like this, so we want to thank you. Commissioner Frankel and Commissioner Holloway, thank you, we look forward to working with you and we'll follow up.

CHAIRPERSON VANN: That's why we were so gentle today. We don't see you that often.

CHAIRPERSON RECCHIA: Could you keep somebody from your staffs behind so they could listen to other people testify? Thank you, we really appreciate that.

[Pause]

CHAIRPERSON VANN: Thank you very much, Commissioner. We're going to call the consortium together as one very significant panel, if I could have your attention, please.

[Pause]

CHAIRPERSON VANN: We're going to ask if Alexis Iwanisziw. Say that again. That was easy, I could say that. She is from NEDAP. Also we'll have Aisha Baruni from the Queens Legal Services; Oda Friedheim from Legal Aid Society; Judith Goldiner from Legal Aid Society. I've got five so far and I've got a couple more coming. I think we need six altogether. Also, we'll have Laurie Izutsu from South Brooklyn Legal Services; Justin Haines from Legal Services New York City Bronx. We've got six.

[Pause]

CHAIRPERSON VANN: Ladies and Gentleman, unfortunately, regrettably, we do not have a lot of time. We have your testimony, so we do not want you to read this testimony. We know that you know these issues well. You have advised us during the course of the past couple of years.

So we want you to just focus in on anything that you think is most pertinent based on the testimony you have heard. You know what's going on. So we don't want you to read your testimony, but please be as brief as you can and focus on what you think is most important for us to know and hear in response to the testimony you've heard. Go in the order that you…

JUDITH GOLDINER: Hello, this is Judith Goldiner from the Legal Aid Society. I'm with really the foremost experts on this issue and I just wanted to really praise the Council's leadership on this. We're really very excited about the bill that you've proposed.

I know that Council Member Vann's leadership has played a huge role in making this happen. Also, thanks so much to the other Council Members. We've met a number of times with Council Member Comrie and I appreciate your leadership on this as well and look forward to working with the Council on this issue going forward.

Just to lay it out, Alexis from NEDAP is going to talk. She's going to sort of lay forward the background. South Brooklyn Legal Services is going to talk about the exemption issues. Justin Haines, from Bronx Legal Services, is going to talk about the notice requirements. Queens Legal Services is going to talk about the servicers and the fees and interest. Oda Friedheim from Legal Aid is going to talk about the affordability of the payment plans. We're going to keep it brief, I promise.

I did want to just say that we're very pleased as well. They will not be addressing this, but on the ERP issue, we're very pleased that the ERP liens are being included because that's an important tool to preserve multifamily housing, which as you know, is a very important priority for all of our organizations. So thanks so much.

ALEXIS IWANISZIW: Thank you. My name is Alexis Iwanisziw. I'm here from NEDAP. We're a resource and advocacy center that works with community groups across New York City to promote economic justice in low income communities and communities of color.

So, Council Member Vann has given a great overview of the issues with the lien sale so far. I'm not going to repeat what he said throughout this hearing.

I just want to draw you attention, if you look in the NEDAP testimony, the last two pages of maps. The very last page will show you a map of the 2010 ten-day notice list for the lien sale and foreclosures in 2009 in New York City. These maps are almost identical. The lien sale is incredibly concentrated in communities of color in New York City.

From what we've seen from homeowners in distress calling our office looking for help, the homeowners who get their lien sold are, almost entirely, low income seniors, homeowners who have been in distress with their mortgage and people whose liens should not have been sold, who would have qualified for exemptions.

So I just want to draw your attention to this map and thank you again for your leadership with this bill. There are so many important safeguards for New York City homeowners in it. We just have a few suggestions for places where it can be improved.

CHAIRPERSON VANN: Thank you. That's a great point, the concentration of that lien sale. That point was not made clearly. Thank you.

LAURIE IZUTSU: Hi, I'm Laurie Izutsu from South Brooklyn Legal Services Foreclosure Prevention Project. I think I'm probably going to echo some of the things that have already been raised here.

I'm here really to emphasize the importance of the exemptions that they've highlighted today. We are extremely concerned about the granted smaller portion of foreclosures, but particularly the more vulnerable populations that you've mentioned: the elderly and disabled. Some of the things that you've mentioned are that they tend to be people who are unaware of the exemptions available to them.

I heard a lot from DEP about how people are very resistant to paying their tax or water charges and that they can afford them. But as you pointed out, we're talking about a smaller portion of people who, because they are senior citizens and/or have a disability, may not have access to the same sort of resources or simply are unaware of them.

These are people who because they are living on a fixed income, if they are struck with a significant unexpected expense, such as necessary home repair or an unexpected medical bill, they temporarily will be unable to cover their water charges or their tax liens.

So what we're talking about is trying to make sure that the appropriate notices with sufficient explanations reach these people. So that they are able to take advantage of the exemptions that are in place for exactly these populations.

One of the things I also wanted to mention, which Alexis pointed out, is that even though this is a small population, they disproportionately comprise the homeowners we see coming to us in foreclosure specifically because of a water or tax lien sale.

I did point out in the testimony but do think it's a point to make note of, even in this past week, we had somebody come to us who was 68 years old and somebody with a disability. He's an amputee. He's a diabetic. He had been his charges consistently and despite that, received a notice for a water bill that was $9,000. He had no idea where this came from.

Despite what DEP was saying about making all sorts of efforts to apprise people of their options, he had actually had contact with DEP and was not availed of the exemptions. So I just want to emphasize that we just really feel it's necessary to have the notices that you've proposed with adequate explanations, but also it should be on the city to proactively identify these populations because they may not have the ability to access this information themselves.

Along with that, to have something in place to require the City to purchase those lien sales that are sold erroneously, because we do see this happen consistently. In those cases where those liens should never have been placed on the lien sale list to begin with, it's very important that I think the City take responsibility and make sure that those liens are bought back. Thank you.

JUSTIN HAINES: Hi, I'm Justin Haines. I'm the Director of the Foreclosure Prevention Unit at Legal Services NYC Bronx office. I want to speak specifically to the notice requirement.

We're talking at something very serious here, which is the possible loss of a home and not just one that's mortgaged but as was pointed out earlier, most oftentimes a home that's fully owned by the homeowner at this point.

Within our body of law and our system of justice, both on the state level and the national level, there's this concept of due process which has a component of notice. Currently, the notice provisions only really include as a requirement--although they've stated they've gone beyond their requirements--but as requirements two publications in newspapers: one notice at 90 days and one at 10 days and one notice to the homeowner.

We have to think about, given the high stakes of the property interest involved--you know the Constitution says that we're not going to be deprived of our property without due process--whether this is really fulfilling the due process requirement when we're talking about losing a home.

So we really want to applaud this new law because it included two notices as a requirement, one of which has to be sent by certified mail, which seemed to be one of the most contentious elements of the notice component.

But when you, by analogy, look at other government action that takes place in say the housing context when NYCHA is going to terminate a Section 8 voucher, which is equally about the home and a property right, they have to send it by certified mail. Part of why you're doing it by certified mail is so that you can have your own assurance, as a department, that that message was sent to the proper place and that it was received by the people.

Now, obviously, most people are going to sign and return this because they've had a tremendous success rate in outreach to people, about 87 percent they claimed. But we're talking about this will help us identify the 13 percent who need targeted efforts, the people who you don't get a return receipt for, will be the people that need to be targeted with special efforts.

It should just be recognized that even though courts have acknowledge that you can do notice by publication, it's always seen as the weakest form of notice. So here we're just really applauding the strengthening of the notice components and making more meaningful. Currently when someone receives a notice, it really just speaks to them about the block and lot and how much is owed and how to go about paying it. It doesn't really inform people of all the options that exist for them. I think that was pointed out earlier in testimony.

Also, we're increasing the time period for people to get contacted from 90 to 120 days, in this proposed legislation, which is critically important. I want to highlight the fact that for these exemptions, under the current system, there's a deadline to apply by sometime in March.

That means that if we see somebody in April, who is reaching out for help, that exemption will not apply for the current lien sale scheduled in June. Even if it's granted, it will have to apply for the full year after that, over a year later. So a person loses out on a whole year worth of reduced taxes as well as are subject to the upcoming lien sale.

We're here because we're a place of last resort. We're seeing the 13 percent. We know who those people are. They are completely unaware of these exemptions that they can apply for and the consequences of the lien sale, which some of my colleagues will speak about. But from direct experience, it is without a doubt, a doubling of any of the lien charges once it is post-sale and goes into foreclosure.

I just want to say that in addition there was talk about quarterly notices under this amendment. That there would be quarterly notices about the different exemption programs. I think that it would really be up to whether they're already getting bills quarterly, perhaps they can be included. There don't have to be separate mailings, or perhaps that's up to the Council to decide.

I think there are cost saving components that the Administration wasn't really considering. There is a way to integrate some of what they're already doing and some of these new components that are a part of this.

So thank you for the opportunity to speak before you today.

CHAIRPERSON RECCHIA: Thank you very much. I'd like to recognize we've been joined by Karen Koslowitz.

AISHA BARUNI: Good morning, my name is Aisha Baruni. I'm a staff attorney with the Foreclosure Prevention Project at Queens Legal Services. Today, I'll be speaking specifically about the interest and fees that are charged on these liens once they're sold.

In our experience, once the tax and water liens are sold, the interest and fees that accrue on the debts, they grow so quickly, even within that first year, that it's impossible for homeowners to get a repayment plan.

We're extremely encouraged by the provision in the proposed bill that appears to reduce the interest rate to 9 percent on these liens for properties that have an assessed value of less than $250,000. We think that this will really assist those homeowners that we see, the low and moderate income homeowners. So we really applaud this. This will really make a tremendous difference.

Next, I just want to quickly discuss the liens that are charged. We are excited to see that the proposed bill contains a requirement that the purchasers must itemize the fees for homeowners. But that doesn't quite get to the heart of the problem, and it could be strengthened just a little bit more to really have a huge impact on the homeowners.

Now the problem is that not only do homeowners not know what fees are being charged, they're not itemized, but the fees are huge. So this language would require the fees be itemized, but those exorbitant fees could still be charged. So what we propose is a requirement that servicers only be permitted to charges fees that are bona fide and reasonable. That will make a tremendous difference.

Also, the fees that are charged, frequently homeowners are told, to the extent they're told, include legal fees associated with a foreclosure action. Those fees, if they were to be awarded by a court in that foreclosure action would typically be governed either by statute or a servicer would have to produce evidence to support the fees that they're asking for.

In the context of fees being charged on these post-sale tax liens, the servicers disregard those limits. They're acting outside of those limits. So in addition to asking that fees that are charged be bona fide and reasonable, we ask that a requirement be put in place that legal fees that are charged be limited to those fees which are reasonable and customary for the work performed. Thank you.

ODA FRIEDHEIM: Good morning. My name is Oda Friedheim. I'm the supervising attorney for Legal Aid's Foreclose Practice. I just want to briefly address the issue of the pre-sale payment plans.

We commend Council Member Vann and all the co-sponsors and City Council staff for having, in fact for the first time in the proposed law, addressed the issue of making payment plans before the sale income-based and affordable.

Now, under the current system, again the homeowners that we are discussing that are the most vulnerable, some of them homebound, some of them not able to go out and actually negotiate or even be knowledgeable that there is such a thing as a 10 percent down payment.

Sometimes they get a bill and they believe they have to pay it all in one swoop. They go to, often an abusive lender, and get themselves into more debt. Or if there is still a mortgage on the house, sometimes we see the mortgage lender just paying the whole thing without the homeowner having had the opportunity to negotiate an affordable repayment plan. That, of course, leads to a whole series of additional problems.

The bottom line here is really that a home that is occupied by a low and moderate homeowner or a senior that is lost as a result of unaffordable payments, ultimately to foreclosure, when it could have been avoided, is one home too many. It has been stressed a number of times, the universe we are talking about is small, but it is important.

In this foreclosure crisis, we can simply not afford to lose one more home that could have been saved. We all know that a lost home not only affects the family, the children, the neighborhood, the overall economic fabric of that neighborhood and community.

We look forward to rules that are going to be promulgated, according to at least the proposed bill, by the Department of Finance in consultation with the DEP. We would hope that the rules reflect great flexibility, that they're income-based, and consider also the household composition plus, where possible, the expenses of that household, and that the approach is extremely flexible to actually make the repayment plan work.

But we also want to suggest that perhaps the rules might consider the adoption and expansion of what DEP was earlier testifying about, which is the Water Debt Assistance Program. In a situation where a homeowner can go forward and pay forward going property taxes and water bills, but cannot catch up with their past arrears for whatever reason, that in such a case, the entire amount or perhaps a portion of that amount could not be sold as a lien but be placed on the property to be basically paid off without interest at the point of refinancing, the death of the homeowner or the sale.

Again, that program is called the Water Debt Assistance Program. We simply encourage that the rules perhaps adopt that as well where appropriate. Thank you very much.

CHAIRPERSON RECCHIA: Thank you very much. Anybody else? Thank you all for testifying.

JUSTIN HAINES: I apologize. One

thing I did want to add is there is no requirement on the notice that it be in multiple languages. I think that one of the issues that I encounter in the Bronx is that there are a lot of monolingual Spanish speakers who are very unaware. The limited English proficiency creates a barrier to understanding their rights and their options. I just wanted to add that. I apologize.

CHAIRPERSON RECCHIA: Thank you very much.

COUNCIL MEMBER BREWER: You're very good.

CHAIRPERSON RECCHIA: Very good. You want a job with Gale Brewer? She wants to hire you.

COUNCIL MEMBER BREWER: Very good.

CHAIRPERSON RECCHIA: Call the next panel. We're going to have to go to a clock because we have a lot of people that want to testify.

COUNCIL MEMBER BREWER: You were fantastic.

CHAIRPERSON VANN: Colvin Grannum. I think he left. He's the President of Bed-Stuy

Restoration. He is in favor, but he had to leave. Next is Michael Hickey from the Center for NYC Neighborhoods; Imelba Rodriguez from Bridge Street Development Corp. They do an excellent job. I know about them. We also have Moses Gates from ANHD; Bonita Dowling, Pratt Area Community Council. They do good work as well. We also have Catherine Isobe from the Bedford Stuyvesant Community Legal Services.

We're going to call on you to use your skills because you're going to have to reduce everything that you want to say into two minutes, regrettably. It's not how long you take it's how well you do it. Use your two minutes wisely.

[Pause]

CHAIRPERSON VANN: You may begin in whatever order you agree upon.

MICHAEL HICKEY: Michael Hickey, the Center for NYC Neighborhoods.

Look, the thing that really strikes me in this conversation that I don't think we've paid much attention to is the fact that these are securitized debt. This is debt you're selling into the secondary market. It's governed by a pooling and servicing agreement. This would be a public contract. Just like the good banking act that was just introduced, these should be reviewed in public and the contract should really provide provisions to look at all of the components of the contract. How many of these liens can be put back, what are the rules for negotiation, fast tracking, escalation and appeals if you have a problem with a servicer? What limitations on fees should be included in this agreement?

These contracts should be built on competitive bidding, not some rate that's set by FIOT. These are people that are willing to purchase bonds. You've got investors who are out there. They should be stepping up to say: look this is the rate that we think is the right rate given the amount of service we're providing. These are service contracts to homeowners. This should not be punitive. It shouldn’t be about going out and punishing people. They should be servicing contracts that are provided as a service to homeowners who are trying to make up for debt that's overdue. That really needs to be a process of full negotiation with lots and lots of input.

That's all I want to say.

MOSES GATES: Hello, my name is Moses Gates from the Association for Neighborhood Housing Development. We represent the Community Development Corporation Movement here in New York City. I'd like to specifically address the HDFC part of this particular proposal.

There is a reason HDFCs have been exempt until now from lien sale, and that is because they need to protect the affordability requirements in them. If any of the HDFCs go through the lien sale process and become foreclosed upon, those affordability protections afforded will vanish completely. For HDFC co-ops, they would be left with absolutely no affordability protections and that's why they have been taken out of this bill.

For HDFC rentals, the only protections would be rent stabilization. Rent stabilization laws that are renewing this June 15th, rent stabilization laws that we have no idea how strong or weak they're going to be in the future. You only have to look to the predatory equity crisis to understand that rent stabilization protections are not sufficient affordability protections for our low income population and our affordable housing.

So we would argue very greatly to take HDFC rental buildings out of this particular legislation, to not have this lien sold. They have not been sold up until this point in time. We understand the city needs to make sure that these buildings pay their bills as well as other buildings. We here at ANHD put on a lot of trainings to make sure that responsible management happens.

The city already has two effective tools in order to transfer these buildings to responsible managers: the third party transfer program, which is for buildings more distressed than in the lien sale, but we would have no objection to putting more of these buildings into the third party transfer program. Many times, the city holds a regulatory agreement or even the mortgage itself on these buildings and is able to initiate as regulator foreclosure, as they're doing with the portfolio in the West Bronx.

These are processes that stay under

city control and protect the affordability requirements in the HDFC programs, not something that's sold to a separate private investor that threatens those affordability protections.

We would be reluctantly more inclined to support the bill if it were made extremely clear that the HDFC rentals, the ability to sell those liens, were only a short-term solution. Something that would sunset March 1st, 2013, before the rest of the bill would sunset, in order to try to collect from those overdue properties right now, but not into the future under other administrations with potentially scarce affordability protections regulation. Thank you.

CALVIN GRANNUM: Good morning. I hope you can hear me. My name is Colvin Grannum. I'm President of Bedford Stuyvesant Restoration Corporation. My testimony is in support of the proposed Intro 26-A. I've submitted written testimony, so I'll just highlight a few things.

First, I want to congratulate Committee Chair Recchia and Committee Chair Vann for the solid work they've done on this bill.

Secondly, I would say that the agencies have been cooperative in many respects and many of the Council Members have recognized that.

I'd like to echo the remarks regarding HDFCs. I was a little bit surprised to hear some of the HDFCs that are not paying the water bills characterized in such a negative light, because it is clearly not true that these property owners are simply snubbing their noses at the city and deciding not to pay.

Many of these properties are greatly distressed. Many of these properties are dependent upon HUD to increase rents in a manner that's consistent with a range of increased costs. Oftentimes, one of the bills that is neglected to be paid is water because some of the others you cannot not pay them and continue to deliver services. So I was a little surprised to hear that. I would echo the comments that say that the rental properties should continue to be outside the scope of the water lien sale.

The next thing that I would like to highlight is owner-occupied four-family houses, which are not currently treated the same as one, two and three-family owner-occupied properties.

Wow that was quick. Is that for me?

In neighborhoods like Bedford Stuyvesant--

CHAIRPERSON RECCHIA: [interposing] We'll give you a little bit of a pass.

CALVIN GRANNUM: I talk to slow. In neighborhoods like Bedford Stuyvesant, they are tantamount to two or three-family homes because oftentimes that's the only way persons can afford home ownership.

I guess that's all I have time to say but I would say that we know the face of many of the people who have difficultly paying their water bills. It is, again, shocking to me, whether it's HDFCs or individuals, that they would be characterized as people who are intentionally withholding payment and not understood to be people who are facing severe economic distress.

Good afternoon, Chairman Vann, Chairman Recchia and other members of the committee. My name is Catherine Isobe. I'm a staff attorney in Foreclosure Prevention at Bedford Stuyvesant Community Legal Services. Our Managing Director Victor Olds was here earlier, but I'm sorry he had to leave.

I want to thank you, first of all, for your perseverance and leadership on this issue. I've been reading over the proposed bill. There is a lot to it and I'm really impressed. I also want to endorse the comments of my colleagues from Legal Services and Legal Aid. I'm not the big expert on this issue, but they've done great work on it and I agree with everything they had to say.

The thing that I think we're most gratified by in the bill is that it's going to provide a little more due process and protection for those vulnerable homeowners that you mentioned Chairman Vann.

I was just looking at some legal papers from a senior homeowner whose nephew called me this past fall. This person did not lose their home. Their home went into foreclosure with a tax lien and the person had some assets. Perhaps there were some memory problems going on there.

But in the process of the case going into foreclosure, there were three sets of attorneys that had to be paid out of this homeowner's assets. The attorneys for the trust that had bought the lien, a guardian ad litem and then an Article 81 guardian that had to be appointed.

So, because the person had some liquid assets, they were taken to satisfy the lien, but the amount was perhaps ten times what the actual lien amount was. So, I agree with you, Chairman Vann that I think the city agencies are capable of the level of complexity that's needed to do a little bit more effective outreach to that 13 percent. That's all I have to say. Thank you.

IMELBA RODRIGUEZ: Good afternoon. My name is Imelba Rodriguez. I'm the Homeownership Services Manager at Bridge Street Development Corporation. I'm going to be very brief.

I just want to highlight, as a foreclosure counselor, I see homeowners come into our office every day. One of the biggest things is they're already dealing with foreclosure issue, having to pay their mortgage, but now to also deal with the water lien bills that are very complex for them to even understand. They need a third party to actually walk them through this process as well as for us to outreach to the Department of Finance and DEP to just kind of get an understanding of where their bill is, how did they get that bill so high.

Bridge Street actually supports Intro 26-A and believes that remove the disputed charges from the lien sale list, require certified return receipt notification of inclusion on the lien list, expand qualifying exemption categories and require itemization of fees, taxes and interest from servicers is important for homeowners so they an have an idea of what exactly they're seeing and why they are getting this bill.

I also want to agree with what was said earlier. These homeowners are not people who are trying to neglect their bills. They're already facing other issues with unemployment, with the foreclosure crisis. I just think that this bill will be a great initiative for them to just continue to have an idea of what they can do and have some sources for them to continue to pay their bill on time. Thank you.

BONITA DOWLING: My name is Bonita Dowling. I am a homeowner counselor at Pratt Area Community Council. I thank you for inviting me here to speak. I also want to thank Councilman Vann. He's always striving to improve the quality of life for all the residents in Bed-Stuy.

I'm a foot soldier and I meet a lot of clients and they have a lot of issues. Of course, one of the issues is the water bill. My job is not to help them with trying to get modifications but try to talk to the people at DEP or some of the other utilities. Fortunately, I was able to and Lee is here to attest to that. I've gotten good contacts there, so some of my clients are not going through what other people are going through.

PAC stands behind you, Councilman, stands behind this bill. What I'm looking for and I know what PAC is looking for it to do is perhaps once you send our your notifications, notify them that community groups like myself, Bridge Street, we're here. Sometimes they need someone to talk with. They need to understand the process.

They've had nightmares trying to speak to somebody at DEP, not knowing about lien sales, not knowing if they could make arrangements or something like that. But if you can refer them, that would be great. We can get them into financial literacy classes. I think that's important too.

We do commend this and we stand behind you 100 percent. Thank you.

CHAIRPERSON VANN: Thank you very much. Your testimony has been very helpful. It emboldened us to go forward with this bill. I appreciate your time. I apologize for the time you had to wait. The last panel and we're going to make our time or they're going to put us out of here.

The next panel will be Mary Ann Rothman. She is from the Council of New York cooperatives and Condominiums. Epstein, the first name is either Harvey or Halvey Epstein from the Urban Justice Center, and April Tyler. April had to leave? April hasn’t arrived yet, it's only February. Mary Ann Rothman and Mr. Epstein will be next. You are Mary Ann?

MARY ANN ROTHMAN: I am, yes.

CHAIRPERSON VANN: Is Epstein here? All right, you've got it. We're going to give you an additional 30 seconds.

MARY ANN ROTHMAN: And I'm grateful. I don't have written testimony. My name is Mary Ann Rothman. I'm the Executive Director of the Council of New York Cooperatives and Condominiums, which is a membership organization for co-ops and condos in the city and beyond.

I want to congratulate you, Chairman Vann, Chairman Recchia and the committees and the "Lien Team" for a lot of hard work and a very impressive hearing today.

We in co-ops and condos in the city have a strong commitment to the city. We've chosen to make our homes here. We understand the importance of paying our bills on time in order to have the services that we want and need and in order to live in a wonderful city. I think our track record is excellent on being timely payers.

My testimony just is related to a very small detail regarding notification on these tax liens. I'm a little bit concerned about how notification will properly reach condominiums, particularly newish construction self-managed condominiums. As you know, unit owners each receive their own property tax bill, and I'm going to be that they all pay them, but in some cases, particularly in new construction, the tax bill is zero because there are benefits that have accrued from the construction process and payment won't be necessary for several years.

The water bill is for the whole building. Small self-managed condos may not even understand their responsibility to pay a water bill. The water bills themselves sometimes have been known to go astray, to be sent to a different block and lot number or sometimes the water bill for the whole building is sent to one individual condo unit owner.

We just want to make sure that great care is taken where there appeared to be water liens on condominiums. Please, please find a way to make sure that individuals are contacted and that the water bill has gone appropriately to the people responsible for paying. Thank you.

CHAIRPERSON RECCHIA: I want to

thank everyone. This bill is still being worked on. We've heard everyone's comments and we'll take everything into consideration. We're going to try to move this forward. Council Member Vann, I want to thank you for your hard work on this.

CHAIRPERSON VANN: Thank you, Chairman; we wouldn't be here without you. Thank everyone who came, who listened, and who participated. Thank you. It's a bill in progress but it's going to come to a conclusion real soon. Thank you.

C E R T I F I C A T E

I, Donna Hintze certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature ___Donna Hintze___

Date _February 25, 2011___________________