

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON FINANCE
COMMITTEE ON COMMUNITY DEVELOPMENT

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October 19, 2009
Start: 10:08 am
Recess: 12:47 pm

HELD AT: Council Chambers
City Hall

B E F O R E:

DAVID I. WEPRIN
Chairperson, Finance

ALBERT VANN
Chairperson, Community Development

COUNCIL MEMBERS:

- Council Member Gale A. Brewer
- Council Member Leroy G. Comrie Jr.
- Council Member Bill deBlasio
- Council Member Lewis A. Fidler
- Council Member James F. Gennaro
- Council Member Vincent J. Gentile
- Council Member Vincent Ignizio
- Council Member Robert Jackson
- Council Member G. Oliver Koppell
- Council Member John C. Liu
- Council Member Melissa Mark-
Viverito
- Council Member James S. Oddo
- Council Member Diana Reyna
- Council Member Joel Rivera

A P P E A R A N C E S [CONTINUED]

COUNCIL MEMBERS:

Council Member James Sanders Jr.

Council Member Helen Sears

A P P E A R A N C E S [CONTINUED]

David I. Weprin
Opening Statement
Chairperson
Committee on Finance

Albert Vann
Opening Statement
Chairperson
Committee on Community Development

Steven Lawitts
Acting Commissioner
Department of Environmental Protection

Joseph Singleton, Jr.
Deputy Commissioner
Bureau of Customer Services
Department of Environmental Protection

Sam Miller
Assistant Commissioner
Department of Finance

Margaret Denatio
Tax Ombudsperson
Department of Finance

Marsha Van Wagoner
Deputy Comptroller for Budget
Comptroller's Office

April Tyler
State and Local Campaign Coordinator
Neighborhood Economic Development Advocacy Project.

Ingrid Faria
Director of Real Estate
Bridge Street Development Corporation

Erica Gillis
Paralegal
Foreclosure Prevention Project

South Brooklyn Legal Services

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2 [START 1001.MP3]

3 MR. EDDIE RENTO CORIASO: Today's
4 Committee is going to be a Joint Committee,
5 Committee on Finance and the Committee on
6 Community Development. Today's date is October
7 19, 2009 and it's being recorded by Eddie Rento
8 Coriaso.

9 [END 1001.MP3]

10 [START 1002.MP3]

11 CHAIRPERSON WEPRIN: Good morning
12 and welcome. Sergeant at Arms, ready? Good
13 morning and welcome to this mornings Finance
14 Committee hearing which is held jointly with the
15 Community Development Committee chaired by my
16 distinguished colleague to my right Council Member
17 Albert Vann.

18 My name is David Weprin and I chair
19 the Finance Committee. We're joined by Council
20 Member John Liu, the Democratic nominee for
21 Comptroller of the City of New York, welcome.
22 Today we will consider legislation that will amend
23 the Administrative Code in relation to the sale of
24 water liens to provide more protection to
25 homeowners. Before I get into the specifics of

2 the legislation and the impetus for the
3 legislation, I first want to thank my colleague,
4 Albert Vann, for sponsoring and spearheading this
5 extremely important piece of legislation that is
6 necessary and long overdue.

7 In 1996 the Commissioner of Finance
8 was granted the authority to sell delinquent
9 property tax and water lien sales, water and sewer
10 lien sales. In 1997 and again in 2001 and 2006
11 the Council enacted legislation that extended the
12 Commissioner's authority to sell tax liens.

13 Together these Local Laws excluded property owned
14 by a company organized pursuant to Article 11 of
15 the State Private Housing Finance Law and allowed
16 the sale of Class 4 property liens with only a
17 water or sewer component so long as the property
18 was in arrears for a minimum of one year.

19 Though the water lien sale was
20 viewed as a tremendous enforcement tool for
21 delinquent bill payers, the Department of
22 Environmental Protection authority to sell water
23 and sewer liens expired on August 31st, 2006.

24 Subsequent to the expiration of the Commissioner's
25 authority to sell tax liens, DEP lacked the

2 enforcement power to collect delinquent bills and
3 thus did not have sufficient revenue to operate
4 the system.

5 As a result in 2007 the
6 Administration sought to propose an 18.5% increase
7 in water rates. In order to increase revenue
8 collection and prevent the 18.5% midyear increase
9 which by the way I think the Council felt they
10 were being felt a little hostage to be hones, the
11 Administration and the Council agreed to extend
12 the Finance Commissioner's authority to sell tax
13 liens and authorized the City to conduct
14 standalone lien sales of delinquent water and
15 sewer charges on certain residential properties.

16 Local Law 68 of 2007 reauthorized
17 and extended the Commissioner's authority to sell
18 tax liens based on delinquent property taxes or
19 delinquent water and sewer charges until December
20 31st, 2010. The legislation also included the
21 authority to conduct lien sales of delinquent
22 water and sewer charges independent of other
23 delinquencies provided that the water and sewer
24 charges have been delinquent for at least one year
25 and equal or exceed \$1,000.

2 Under Local Law 68 all single
3 family home owners in Class 1 and certain senior
4 citizens, disabled and low income home owners
5 owning two or three family properties in Class 1
6 were exempt from the sale of water and lien sales.
7 By circumventing the need for an 18.5% midyear
8 rate increase the City taxpayers were able to save
9 approximately \$63 for a single family home. As an
10 additional safeguard for DEP customers the
11 Administration and the Council entered into an
12 agreement in the form of a Memorandum of
13 Understanding which among other things provided
14 for the creation, for a payment incentive program
15 and the creation of an Ombudsman Unit to handle
16 customer disputes.

17 While Local Law 68 of 2007
18 decreased the delinquency rate for nonpayment of
19 water and sewer charges, statistics now show that
20 the law, though well intentioned,
21 disproportionately affects seniors and low and
22 moderate income property owners of two and three
23 family homes in communities of color. In the
24 current fiscal climate with high unemployment
25 rates, declining home prices and lack of access to

2 credit, many home owners, particularly seniors and
3 those in communities of color, are losing their
4 homes in water lien sales because of their
5 inability to pay their water bill.

6 In response, Proposed Intro 1071-A,
7 prime sponsor being Council Member Vann, seeks to
8 afford more protection to home owners by number
9 one, increasing the delinquency threshold for two
10 and three family homes in Class 1 that can be
11 included in the water lien sale from one year per
12 \$1,000 to three years per \$1,000. Exempting Class
13 2 and 3 family home owners in Class 1, they
14 receive the Enhanced STAR exemption from water
15 only lien sales and subsequent tax liens. Number
16 three, requiring DEP after consultation with the
17 Department of Finance to use best efforts to
18 search and identify recipients of the Senior
19 Citizens Home Owner Exemption Program, the
20 Disabled Home Owner Exemption Program, the New
21 York State Circuit Breaker Program which provides
22 a credit to home owners with incomes less than
23 \$18,000, against their personal income tax and
24 Enhanced STAR program in allowing the Commissioner
25 of DEP to remove them from the lien list.

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2 Number four, requiring DEP to
3 inform the Department of Finance of any recipients
4 of the Senior Citizen Home Exemption, Disabled
5 Home Exemption, the New York State Circuit
6 Breaker, and Enhanced STAR that are placed on the
7 lien sale list.

8 Number five, requiring quarterly
9 mailings with lien sale process information and
10 exemption information and relevant contact
11 information. And lastly, number six, extending
12 the time when home owners first receive notice of
13 the sale to the date of the sale from 90 days to
14 120 days.

15 With this legislation I hope that
16 our residents will find the relief to help them
17 stay in their homes and not lose it because of a
18 delinquent water bill. You know, I want to say
19 that I was a very strong opponent for many years
20 against standalone water lien sales but I only
21 agreed to it back when it was, the last
22 legislation was extended, because of the exemption
23 of single family homes and the fact that I was
24 under the impression that this standalone water
25 lien sale would be the panacea that DEP needed to

2 make sure that we don't have these double-digit
3 water rate hikes each and every year which we've
4 had. And I would of course, was under the
5 impression that the excess rental payment that now
6 goes into the general fund would not be used and
7 would be used to subsidize the water rake hikes.

8 I'm saddened to say that both of
9 those cases were not the case. That we've had
10 double-digit water rate hikes for three or four
11 years in a row, with the City of New York having
12 the highest unemployment rate in its history or
13 certainly in a very, very long time, with
14 everything seeming to be going up with us still in
15 the recession and middle class trying to make ends
16 meet, I'm very concerned about these water rate
17 hikes. And I find it very unfortunate that
18 despite the City Council granting the standalone
19 water lien sales with the Administration testified
20 would be so important to prevent these double
21 digit water rake hikes that actually that has not
22 been the case at all. That in fact these double-
23 digit water rate hikes have continued. And I find
24 that very distressing.

25 With that I'm going to turn the mic

2 by the current law. While the dollar amounts of
3 the unpaid liens that create this risk of losing
4 their home may not seem that high, the people
5 affected are likely to also be those who have lost
6 jobs or who have had their incomes reduced because
7 of the state of the economy, have lost benefits
8 that now they must pay for directly, and held or
9 hold jobs that pay wages that never allowed them
10 the luxury of significant savings, that make it
11 manageable to stay current on their mortgages, to
12 keep credit card companies at bay and generally
13 ride out these very difficult times.

14 At the same time the City
15 government is striving through many programs to
16 assist its citizens in surviving these financial
17 crises. The aspect of law that we seek to change,
18 severely undermines the effort for a significant
19 portion of our people. For the residents of New
20 York City who are the backbone of the City, to
21 have their homes unnecessarily placed at risk is
22 unfair and unjust and should definitely be
23 changed.

24 So I look forward to your testimony
25 this morning. And having said that I turn it back

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2 over to my co-chair to start the hearing.

3 CHAIRPERSON WEPRIN: Thank you.

4 We've been joined by our Deputy Majority Leader
5 from Queens, Leroy Comrie and our Assistant
6 Majority Leader from Brooklyn Lew Fidler and
7 Council Member Helen Sears from Queens.

8 Commissioner, do you have prepared testimony?

9 MR. STEVEN LAWITTS: I do Mr.
10 Chair.

11 CHAIRPERSON WEPRIN: Okay. Do we
12 all have it? I think I have it here. No this
13 isn't it. Do we all have a copy of the testimony?
14 I don't think so.

15 MR. LAWITTS: I believe you do.

16 CHAIRPERSON WEPRIN: Okay, proceed.

17 MR. LAWITTS: Thank you. Good
18 morning Chairs Weprin and Vann and members of the
19 two Committees. I'm Steven Lawitts, Acting
20 Commissioner of the New York City Department of
21 Environmental Protection. And I'm joined this
22 morning by Joseph Singleton, Jr., the Deputy
23 Commissioner for the Bureau of Customer Services.

24 Thank you for the opportunity to
25 present testimony on Introduction 1071 of 2009

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2 Ombuds Unit. That Unit is responsible for
3 providing special assistance to all account
4 holders facing lien sale and undergoing the lien
5 sale process. The Ombuds Unit also hears dispute
6 cases as part of DEP's expanded dispute resolution
7 process. In addition the Ombuds Unit oversees the
8 work of the Safety Net Referral Program which uses
9 the existing network of City agency and not-for-
10 profit programs including the Home Energy
11 Assistance Program, the Senior Citizen Home Owners
12 Exemption, the Weatherization Assistance Program
13 and HPD's newly launched Center for New York City
14 Neighborhoods which provides extensive financial
15 counseling and legal services to home owners
16 affected by the national mortgage and predatory
17 lending crisis.

18 In making significant changes in
19 our billing, collection and customer service
20 operations we employed a range of efforts to make
21 it easier for account holders to settle overdue
22 bills. Beyond the protections afforded in Local
23 Law 68, DEP deletes from our lien sale lists and
24 collection actions those properties that are in
25 bankruptcy or in the first stage of a foreclosure

2 proceeding. We are able to screen these
3 properties out by cross-checking our lien sale
4 list with the relevant bankruptcy and foreclosure
5 lists. This has proven to be an appropriate and
6 effective safety valve and largely avoids water
7 and sewer liens from becoming the tipping point in
8 a difficult personal budget situation.

9 We removed from the lien sale list
10 and chose not to pursue termination of service for
11 1,878 properties in a foreclosure proceeding.
12 Unfortunately that number has increased from 816
13 in 2008. These numbers confirm that screening for
14 bankruptcies and foreclosures will continue to be
15 helpful to this group.

16 As you know we have also partnered
17 with Council Members, other elected officials and
18 community groups to create opportunities for DEP
19 staff to meet one on one with customers who have a
20 delinquent account or who just have general
21 questions. We greatly appreciate the cooperation
22 of members in co-hosting these events.

23 Before moving to the specifics of
24 the bill I would like to briefly summarize our
25 progress on two significant structural changes to

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2 billing and revenue collection: automated meter
3 reading and the customer information system.

4 Installation of the automated meter reading or AMR
5 system is going well. To date we have installed
6 104,655 meter transmitter units which replaced the
7 familiar black meter reading devices on the
8 outside of most buildings, eliminating the need
9 for an onsite reading and providing real time
10 information.

11 Installed MTUs are functioning at a
12 98% accuracy rate. Approximately 900 more units
13 are being replaced daily by our contractors
14 citywide. And 274 of the approximately 330
15 rooftop receivers or 83% of the total have been
16 installed and are operating. As a result of all
17 these efforts we continue to increase billing
18 accuracy, resolve disputes more expeditiously,
19 improve and enhance our customer's experience with
20 managing their accounts and we have helped
21 thousands of our most chronically delinquent
22 customers to become current with their water bills
23 and helped to ensure that they avoid delinquency
24 moving forward.

25 DEP will shortly choose a vendor

2 year behind. The longer the balance builds, the
3 larger the problem. It is important to remember
4 that when a property owner is exempted from the
5 lien sale, the practical effect is that the Water
6 Board forgoes revenue it had projected to collect
7 from that owner for services the Board provided.

8 But the need for that revenue
9 doesn't disappear. That revenue is part of the
10 Board's projections for the amount of money it
11 needs to pay the cost of the water and sewer
12 system, salaries, pensions and healthcare for
13 employees, debt service, payments to contractors
14 and bills for energy, chemicals, taxes and rent.
15 Pursuant to the statutes, financing agreements and
16 bond covenants that govern the operation of our
17 system, the Water Board must set a rate that
18 covers all these costs.

19 That means that the balance of
20 unpaid accounts is passed along to other customers
21 in the form of higher rates the following year.
22 If the City allows a delinquent property owner to
23 accrue larger balances, we are imposing a bigger
24 burden on that property owner's neighbor, very
25 often someone who is also struggling to meet his

2 or her financial obligations in difficult times.

3 I will address first the provisions
4 that we do not consider problematic although we
5 may want to discuss further whether an
6 administrative solution is more desirable than a
7 statutory one as a way to achieve the goal. The
8 bill proposed to require DEP and Finance to
9 identify persons eligible for the DHE, SCHE and
10 Circuit Breaker tax exemptions and inform them of
11 their eligibility.

12 Last year in response to a mailing
13 to all customers, DEP and Finance received
14 completed applications from 300 additional account
15 holders who were eligible for exemption. We can
16 certainly do additional mailings and outreach
17 events and explore ways to better identify and
18 inform property owners who are not currently
19 taking advantage of existing tax exemptions which
20 also serve to exclude them from a water only lien
21 sale. However no change in the law is required to
22 create new outreach efforts to let people know the
23 categories of properties for which property tax
24 exemptions are available.

25 The bill also suggests mailings to

2 property owners with lien sale process
3 information, exemption information and relevant
4 contact information. DEP, working with Finance,
5 can certainly consider more frequent mailings or
6 other communications that would get to property
7 owners the information they need about lien sales
8 but we do believe that quarterly mailings run the
9 risk of becoming excessive and being quickly
10 discarded by property owners.

11 DEP could also accommodate the
12 provision exemption two and three family homes
13 receiving Enhanced STAR from water only and tax
14 liens. The Enhanced STAR program partially
15 exempts the primary residences of senior citizens
16 age 65 and older with yearly household incomes not
17 exceeding the statewide standard from school
18 property taxes. The current lien sale authority
19 already excludes from the lien sale, homeowners
20 receiving disability-related or age-related
21 property tax exemptions.

22 Approximately 40,000 owners are
23 exempt under the DHE or SCHE exemptions. Their
24 total arrears are \$7.5 million. Adding the
25 Enhanced STAR exemption would exclude fewer than

2 24,000 accounts and increase current arrears by
3 another \$2.4 million. The veteran's exemption
4 excludes 22,982 properties with delinquent charges
5 of \$2.1 million. The owners who apply for these
6 exemptions are also generally people who pay their
7 bills. And seniors tend to use very little water
8 and have low bills. These added exemptions would
9 not result in an alarming diminution in potential
10 revenue. However like any other action to create
11 exemptions Intro 1071 would have the impact of
12 requiring other uses to pay for payments lost
13 under these exemptions.

14 We are concerned about the
15 provision extending the lien sale notice period.
16 As I mentioned before extending the lien sale
17 notice period to 90 days has been helpful by
18 giving customers more time to pursue payment
19 options and assistance. However we believe that
20 extending the lien sale period from 90 to 100
21 [sic] days may have the negative effect of making
22 the prospect of lien sale more remote and less
23 likely to prompt action. DEP's experience is that
24 most property owners respond to the lien sale
25 notices in the last 15 days before the lien sale.

2 Now the 90-day notice goes out in February,
3 notifying property owners that their lien sale
4 could be sold in May.

5 Most property owners come to DEP
6 offices during late April or early May to clear up
7 the delinquency. Sending lien sale notices out in
8 January probably will not have any effect on the
9 number of liens sold but may unfavorably dilute
10 the function of the notice as an alert and a call
11 to action.

12 Finally increasing the delinquency
13 threshold from one to three years could have a
14 significant negative impact on the system. In
15 fact it has the potential to undermine much of the
16 progress that has been made over the last two
17 years. Allowing property owners to become more
18 delinquent before noticing them that the lien on
19 their house is saleable is not a solution to the
20 problem of property owners who do not pay their
21 water and sewer bills.

22 Ultimately it is probably no
23 service to the individual customer to allow him or
24 her to ignore this financial obligation and shift
25 the burden of it to someone else. The lien sale

2 list does not create the liens. The underlying
3 delinquency creates the lien. Keeping the lien
4 off the sale list does not make the underlying
5 charges disappear; they just grow larger in most
6 cases.

7 I should add that the danger of
8 incentivizing delinquency in water and sewer
9 charges arises in part from the fact that they are
10 variable charges. Because they are variable,
11 banks and mortgage holders do not automatically
12 collect and pay them as they do a fixed charge
13 like real estate charges.

14 If DEP has to wait three years for
15 the lien to ripen, that means two additional years
16 of delinquency before the home owner is alerted
17 that she or he has a significant problem. It also
18 represents two more years of accruing charges that
19 will have to be paid. Because approximately 92%
20 of the properties that are placed on the lien sale
21 list resolve their delinquency before the lien
22 sale actually occurs, we know that property owners
23 can put down a deposit and enter into payment
24 agreements once they confront the problem.

25 Resolving the delinquent charges

2 and removing the property from the lien sale list
3 is a better solution in many cases than simply
4 ignoring the problem for another few years.

5 Thank you for the opportunity to
6 testify and I would welcome the opportunity to
7 continue a conversation with members on additional
8 ways to provide assistance and information to New
9 York City water and sewer customers. I would be
10 glad to answer any questions.

11 CHAIRPERSON WEPRIN: Gale Brewer
12 from Manhattan. Commissioner Lawitts, had we in
13 the Council not had the experience with your
14 agency regarding these lien sales, we might rely
15 on your testimony that you would voluntarily do
16 certain of these consumer protections without
17 legislation. But you have a very long history of
18 doing otherwise. And as a matter of fact, I'm
19 particularly distressed and I referred to it in my
20 opening statements and I'd really kind of like a
21 response from you, as to my recollection is when
22 you were asking for these standalone water lien
23 sales, this was going to be the panacea that was
24 going to prevent these double digit water rate
25 hikes.

2 I also have a very vivid
3 recollection when we were under pressure, under
4 the gun for this midyear--which I think was
5 actually, you know, a scare tactic by your agency,
6 and you kind of held the Council hostage by this
7 midyear 18% increase that of course nobody wanted.
8 And as a result you used that as a bargaining tool
9 to actually do the standalone water lien sales or
10 to get us to enact standalone water lien sales.
11 And at that time I have a specific recollection of
12 an agreement which did not become law. It was
13 just an oral agreement that you would eliminate
14 the excess rental payment that is now going into
15 the general fund which is not being used for water
16 and sewer purposes. And when I talk about the
17 excess rental payment I think you know full well
18 what that it. It's an agreement between New York
19 City Water Board and the City where payments are
20 made from the Water Board to the City which are
21 supposed to be to maintain the system and to pay
22 off the old bonds that the City of New York used
23 to issue before the Water Board was created. And
24 at this point there has been a cross-over of
25 excess revenue and we were under the impression

2 that that agreement, that excess revenue, would be
3 not put back into the general coffers of the City
4 of New York but used to keep the--to maintain the
5 system and to keep the water rate hikes down.

6 So if you have not gone along with
7 that oral agreement and not eliminated that rental
8 payment, why do we have any reason to believe that
9 you'll do any of these things voluntarily without
10 legislation?

11 MR. LAWITTS: Chairman Weprin, I
12 know you've used the term panacea many times when
13 referring to the lien sale legislation that was
14 passed two years ago. That's not a term that I or
15 my predecessor in the Administration have used.
16 We've described the lien sale as a necessary
17 component to keeping the finances of the water and
18 sewer system viable. I don't believe we ever
19 described the lien sale as a cure-all for the
20 financial challenges of running this water and
21 sewer system. In terms of the verbal agreements
22 we made and the Memorandum of Understanding that
23 we signed with the City Council, I believe that we
24 have lived up to our part in terms of some of the
25 things that I described in my testimony in terms

2 of the safety net programs that we've been
3 running, the outreach that we've performed to our
4 customers, often in conjunction with City Council
5 Members. And I believe that the commitment on the
6 rental payment was not to eliminate it but to
7 discuss with City Council possible alternatives to
8 the formula that currently exists in State law.

9 CHAIRPERSON WEPRIN: So we
10 discussed it and you rejected it basically, is
11 that what you're saying?

12 MR. LAWITTS: The formula has not
13 changed, that's correct.

14 CHAIRPERSON WEPRIN: Let me ask you
15 a question. How much excess rental payment is
16 going into the general fund as we sit here today
17 for this fiscal year?

18 MR. LAWITTS: For Fiscal Year 2010
19 the current projection is \$129 million.

20 CHAIRPERSON WEPRIN: Okay. And
21 what's the projection for Fiscal Year '11 starting
22 July 1st?

23 MR. LAWITTS: Well the rental--it's
24 paid on the last day of the Fiscal Year. So the
25 June 30th of 2011 the current projection is \$173

2 million.

3 CHAIRPERSON WEPRIN: \$173 million.

4 Okay. What possible justification could there be
5 on your agency's part to keep that extra \$129
6 million or that extra \$173 million the following
7 year and put it into the general fund when people
8 are paying their water bills under the impression
9 that it's maintaining the water system and for
10 service of water, for a service. Isn't this
11 really a back door property tax, an additional
12 property tax that is probably less accountable to
13 anyone?

14 MR. LAWITTS: Well as you know
15 Chairman Weprin, the formula for the rental
16 payment is prescribed in state law and there has
17 been no state legislation to change that.

18 CHAIRPERSON WEPRIN: And would you
19 support state legislation to change that?

20 MR. LAWITTS: That really wouldn't
21 be my decision since the excess rental payment, as
22 you observed Mr. Chair, is going into the City's
23 general fund. That the City Budget Director would
24 probably be the more appropriate person to speak
25 on that--

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2 CHAIRPERSON WEPRIN: [Interposing]

3 Well I know the City Budget Director's position.

4 I'm asking you what your position is on it. Would
5 you support legislation to change that?

6 MR. LAWITTS: I--I don't--

7 CHAIRPERSON WEPRIN: [Interposing]

8 I know the answer the City Budget Director will
9 give me 'cause he loves to have extra money. And
10 we all love to have extra money but, you know,
11 what's fair is fair. When people are paying their
12 water bills, they think the money is going for
13 water services not for, you know, another property
14 tax. Otherwise just add it onto the property tax.
15 So would you support legislation to change that?

16 MR. LAWITTS: Well that's... I don't--
17 -I don't feel it's appropriate for me to express
18 an opinion in my role as Acting Commissioner or
19 Executive Director of the Water Board. I can't
20 speak on behalf of the total finances of the City
21 of New York.

22 CHAIRPERSON WEPRIN: Why not?

23 You're Acting Commissioner. You're Executive
24 Director of the Water Board, if not you, who? Who
25 should comment on it? Who should take a position

2 on it? Aren't you the expert on the Water Board?

3 MR. LAWITTS: For the finances of
4 the water system, not for the finances of the City
5 of New York as whole.

6 CHAIRPERSON WEPRIN: Okay. Well
7 that's pretty good, as a finance--exactly. So why
8 can't you take a position being the expert on the
9 water system?

10 MR. LAWITTS: Because the decision
11 to continue the present arrangement or change
12 state law to require something different, a
13 smaller residual rental payment, I believe need to
14 take into account the condition of the entire
15 City's financial needs.

16 CHAIRPERSON WEPRIN: Oh so you're
17 saying that because we have a budget deficit, we
18 want to get as much revenue as possible into the
19 general fund so it doesn't matter that water and
20 sewer payers are paying more money than they
21 should have to.

22 MR. LAWITTS: I'm saying in order
23 to make a comment on the excess, on the residual
24 rentals payment; one has to take into account all
25 the City's finances.

2 CHAIRPERSON WEPRIN: Okay. Well.
3 I'm going to repeat, that is reason why I'm
4 supporting Council Member Vann's legislation and I
5 actually would support legislation at this point
6 to totally eliminate the standalone water lien
7 sale altogether because I really feel that it has
8 been a breach of, you know, good faith here. That
9 we've been kind of trying to negotiate in good
10 faith. We all, myself, Chairman Gennaro, Chairman
11 Vann, members of the City Council, felt very
12 strongly that their constituents were paying large
13 amounts of money for these double digit water rake
14 hikes each and every year which really did not
15 exist until about four years ago. I think there
16 were certainly single digit rates prior to that
17 and then the last four or five years they've been
18 double digit water rate hikes. And it's become
19 very disconcerting especially in light of the fact
20 that peoples' homes' values are going down while
21 their assessments are continuing to go up at the
22 same time. You know, fares on the MTA and, you
23 know, bus and subway fares are going up. You
24 know, every--parking tickets are going up and
25 becoming more excessive. It's--there are a lot of

2 people out of work. You know, it's a very tough
3 time to live in the City and this type of, you
4 know, bureaucratic, you know, jumbo that the
5 average public doesn't understand, where they
6 don't realize that when they're actually paying
7 these excessive water rate hikes, that they're
8 actually becoming another property tax, really
9 makes it very disturbing, not only to our
10 constituents but to us as legislators trying to
11 make it easier for people to live in the City.

12 So, you know, I hear what you have
13 to say as far as wanting to do a lot of this
14 consumer-oriented safeguards voluntarily but I
15 know, speaking for myself and I know most of my
16 colleagues agree, that we're very skeptical about
17 the so-called voluntary agreement when I cannot
18 see any possible justification for agreeing to
19 have an excess rental payment of \$129 million come
20 out of the tax payers of the City of New York that
21 are paying water taxes and expecting that money to
22 go for water taxes. And I don't care how much of
23 a reduction it means in the rate, it's still
24 totally unconscionable that \$129 million of water
25 rate payer's fees are not going to for water

2 purposes but just to provide additional funding
3 for the City of New York in general. And until
4 you can justify that, I'm very skeptical about any
5 kind of voluntary agreement you may make.

6 I'm just going to ask a couple more
7 questions. I know Chairman Vann has a number of
8 questions and a lot of my colleagues do as well.

9 The Class 1 properties with water-
10 only liens on the 90 day notice list for the 2009
11 sale, about 15% of those properties had liens that
12 were eventually sold. About 85% of the properties
13 did not end up on the lien sale even in Council
14 Districts with high concentration of Class 1 liens
15 and higher foreclosure rates. Can you describe
16 how the 85% that came off the final list did so?

17 MR. LAWITTS: Yes. And just to put
18 some numbers behind it, Chairman Weprin.

19 CHAIRPERSON WEPRIN: Um-hum.

20 MR. LAWITTS: For Fiscal Year 2009,
21 for Tax Class 1, we started with a 90-day list of
22 10,760 accounts with a value in terms of
23 delinquent charges of about \$69 million. And by
24 the time the lien sale took place the number of
25 accounts that was actually sold had been reduced

2 85% to 1,601, and the dollar value had been
3 reduced from that \$69 million on the 90-day list
4 to about \$10.6 million. Both of those reductions,
5 both the number of accounts and the dollar value
6 were 85% reduction from the 90-day list.

7 Most of that reduction took the
8 form of payments from the customers, from the most
9 of the 9,160, approximately, difference in the
10 customers between the 90-day list and the number
11 of liens sold were a result of those customers
12 either paying off their arrears in full or signing
13 binding payment agreements to stretch out their
14 delinquent payments over as many as five years.

15 CHAIRPERSON WEPRIN: How much were
16 paid in full?

17 MR. LAWITTS: Of the total it was
18 approximately 40% that was paid in full and
19 approximately 60% that was paid through a payment
20 agreement.

21 CHAIRPERSON WEPRIN: Okay how
22 difficult it is to enter into a payment agreement
23 and what's involved in that negotiating process?

24 MR. LAWITTS: If, for example, Mr.
25 Chair, you have outstanding charges of, including

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2 late payment charges, of \$1,000, you come into our
3 office. You sign a payment agreement that allows
4 you to spread that \$1,000 over as many as 5 years,
5 in 60 payments, 1 payment every month. And as
6 long as you make your monthly payments on time and
7 as long as you make your quarterly current water
8 bill payments on time then that payment agreement
9 remains in effect. So the process of obtaining a
10 payment agreement is simply coming in and signing
11 one.

12 CHAIRPERSON WEPRIN: Isn't it a
13 fact, Acting Commissioner that a lot of the people
14 that fell off of this 90-day list were basically,
15 when they pointed out that there were actual
16 errors made by DEP and the money was not owed in
17 the first place?

18 MR. LAWITTS: No. As I said most--

19 CHAIRPERSON WEPRIN: [Interposing]
20 None? Zero?

21 MR. LAWITTS: --no--

22 CHAIRPERSON WEPRIN: [Interposing]
23 Were none due to DEP errors?

24 MR. LAWITTS: Not zero.

25 CHAIRPERSON WEPRIN: Well what

2 actions that banks have taken in the last 12
3 months. So essentially the bank is obligated to
4 do that if you miss 2 payments or they move to
5 foreclosure if you've missed 2 payments, they'll
6 file a lis pendens document. As a safeguard we go
7 in and run that report and pull all of those
8 accounts out without any contact from the customer
9 so that it's been our experience either folks will
10 get back on track on those delinquencies and
11 subsequently straighten out their arrears with us
12 or the mortgage delinquency is getting so severe
13 that the house may be lost and then the bank will
14 take that delinquency.

15 So there are a whole series of
16 drops. We dropped as we mentioned in the
17 testimony 300 additional accounts based on a
18 mailing we did with Finance to folks that were on
19 that 30-day list for SCHE and DHE exemptions. So
20 there's a whole host of reasons why accounts could
21 be dropped. Those are three of the larger drops
22 that we deal with. But if you have an active
23 dispute and we think there's validity to the
24 dispute, we drop the account from the lien sale.

25 CHAIRPERSON WEPRIN: But what

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2 percent would you say would fall in that category?

3 MR. LAWITTS: Probably--

4 MR. SINGLETON: [Interposing] I
5 would say 5% to 7%. I think if the Council
6 remembers, one of the reasons when you first
7 authorized the lien sale, we structured that
8 payment incentive program, was to minimize a lot
9 of those disputes. A lot of those delinquencies
10 were multiyear, so instead of going billing cycle
11 by billing cycle for a delinquency that may be
12 four or five years old, we capped those charges at
13 \$2 per day and we did away with the late payment
14 charges. That got a lot of the sort of
15 disagreements taken out in that manner.

16 CHAIRPERSON WEPRIN: Okay we've
17 been joined by Council Member Oliver Koppell from
18 the Bronx. I'm going to turn the mic over to my
19 co-chair, Chair Vann.

20 CHAIRPERSON VANN: Thank you Chair
21 Weprin. Following the same line of concern,
22 standalone water and sewer lien sales, since the
23 enactment of Local Law 68 of 2007, which as you
24 know authorized the sale of standalone water
25 liens, the City has conducted two lien sales, the

2 2008 and 2009 sales. In the 2008 and 2009 sales
3 Class 1 residential liens made up nearly 50% of
4 the total number of liens sold which in earlier
5 lien sales Class 1 liens comprised about a quarter
6 of those liens sold.

7 In 2008, 2009 sales, water liens
8 comprised about 40% of the value of all liens
9 sold. In earlier liens, water liens accounted for
10 about 20% of the total value of the sold liens.
11 Based on the history of past lien sales, how much
12 does the City collect in outstanding water and
13 sewer balances during the lien sale notification
14 period?

15 MR. LAWITTS: Well Chairman Vann as
16 I had indicated earlier, we elected, and this is
17 across, if you're interested in just Tax Class 1,
18 two and three family homes.

19 CHAIRPERSON VANN: That's correct.

20 MR. LAWITTS: We, in 2008, the
21 amount in arrears dropped form \$91 million to
22 about \$8.5 million. So we collected somewhere
23 close to \$80 million in the period leading up to
24 the lien sale.

25 In Fiscal Year 2009, the lien sale

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2 that was conducted last May, between the 90-day
3 list in February and the actual lien sale, we
4 collected approximately \$58 million from Tax Class
5 1 only.

6 CHAIRPERSON VANN: What would you
7 say is the collection rate for those Class 1
8 residential properties, Class 1 home owners?

9 MR. LAWITTS: If you're referring
10 to--

11 CHAIRPERSON VANN: [Interposing]
12 Well how did it compare to commercial properties,
13 the residential ones?

14 MR. LAWITTS: In terms of the
15 collection rate on their current bills, in other
16 words, how current are those property owners.

17 CHAIRPERSON VANN: Yes.

18 MR. LAWITTS: As a whole. There's
19 not a significant difference between the Tax Class
20 1 and the commercial. System wide across all of
21 our Tax Classes about 88% of our customers pay
22 their bills within 2 billing cycles. It tends to
23 be a little higher for commercial but commercial's
24 a relatively small percentage of our total. So I
25 would say somewhere in the mid to high 80s, 85% to

2 88% for Tax Class 1.

3 CHAIRPERSON VANN: Has the
4 collection rate changed since the downturn in the
5 economy?

6 MR. LAWITTS: It's actually changed
7 for the better in terms of long-term
8 delinquencies. And if you look at the number of
9 customers and the number of dollars that are in
10 serious delinquency for Tax Class 1, if you look
11 at just what's happened in the last year, from
12 September 30th of '08 to September 30th of this
13 year, the dollars in serious delinquency in this
14 Tax Class have gone from \$93 million to \$83
15 million, that's a decrease of 11%.

16 The number of customers who are
17 delinquent by a year or more has decreased from
18 just under 55,000 to just over 53,000. And that's
19 a decrease of 3% to 4%. So despite the economy
20 and I think this goes back to what we were saying
21 in our testimony, what Deputy Commissioner
22 Singleton was saying, is that the lien sale that
23 was enacted by the Council almost two years ago
24 has improved the collection rate and the number of
25 seriously delinquent customers as well as the

2 dollar amounts that they owe have dropped since
3 last year.

4 CHAIRPERSON VANN: Now has this
5 collection rate, so the impact on the collection
6 rate, now that we have increased the number of--
7 included the Class 1 residential properties, for
8 standalone water, but two years ago you said that
9 has increased your ability to collect?

10 MR. LAWITTS: That's correct.
11 Especially from our most seriously delinquent
12 accounts, those that are one year or more behind
13 which is the universe for the lien sale
14 legislation that was passed two years ago.

15 CHAIRPERSON VANN: And what has
16 been the impact on those who have very little
17 means to pay? Who we are trying to exempt.

18 MR. LAWITTS: Well those, I have to
19 assume that those who comprise what we described
20 earlier as the 9% of customers in the 2008 lien
21 sale whose liens were actually sold or the 15% of
22 customers in the 2009 lien sale whose liens were
23 actually sold, that their liens got sold, either
24 because they were unable to pay or unable to or
25 unwilling to sign payment agreements. I just need

2 to remind the Council that anyone who is subject
3 to having his or her lien sold always has the
4 option of coming in and signing a payment
5 agreement and stretching that delinquent amount
6 over five years.

7 CHAIRPERSON VANN: But you actually
8 have no way of knowing those who were not enrolled
9 in any of your exempt programs. You can't really
10 tell us what the impact has been on them because
11 you have no way of knowing. Is that accurate? If
12 they've not enrolled in SHE or just say one of the
13 other disable programs, they're not enrolled, have
14 you been keeping up with the impact?

15 MR. LAWITTS: Right. We don't know
16 for those relatively few, the 1,200 in 2008 and
17 the 1,600 in 2009, whose liens were actually sold.
18 We don't know why they didn't come in and sign a
19 payment agreement.

20 CHAIRPERSON VANN: Well okay--

21 MR. LAWITTS: [Interposing] Or pay
22 in full. We don't know whether it was because
23 they were truly unable to, or they had another
24 reason why they didn't want to.

25 CHAIRPERSON VANN: Okay. Maybe we

2 can keep up a little better if we have this
3 legislation that's being proposed today 'cause
4 this bill requires the DEP along with the
5 Department of Finance, pursue best efforts to
6 identify property owners who are eligible but not
7 enrolled in the various programs we're talking
8 about, SHE, the Disabled Home Owners Exemption
9 Program, what else we got? New York State's
10 Personal Income Tax Circuit Breaker Program, the
11 Enhanced STAR. So, you know, we'd want them, if
12 they are eligible for these programs even if they
13 have not enrolled that they be taken off the list.

14 So could you tell us what methods
15 you are currently using to identify seniors with
16 eligible liens--

17 MR. LAWITTS: [Interposing] Right--

18 CHAIRPERSON VANN: --who qualify
19 for these programs?

20 MR. LAWITTS: I think as we had
21 testified earlier Chairman Vann, that we had in
22 the last year had sent notices out to our
23 customers and informing them of the eligibility
24 criteria for these exemption programs and asking
25 them if they weren't already identified to

2 identify themselves. And we did receive from 300
3 of our customers this additional self-
4 identification. And we removed them from the lien
5 sale list if they were subject to it in the first
6 place.

7 CHAIRPERSON VANN: How many others
8 did--

9 [Pause]

10 CHAIRPERSON VANN: --fact that they
11 had not enrolled in these programs that would
12 exempt them, indicates there is a problem which
13 requires something other than a notice being sent
14 out, not knowing the nature of the circumstances
15 that these seniors may live and so forth which is
16 really why we think this legislation requires that
17 if they're eligible, even if they have not
18 enrolled, that they may exempt, would you agree?

19 MR. LAWITTS: Right. And the
20 challenge is to identify all those who are
21 eligible and who, for whatever reason, because
22 they don't know that they're eligible or if they
23 just--they never go around to applying is to find
24 as many of those as we can and have them
25 identified and have them go into our data as

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2 exempt from lien sale.

3 CHAIRPERSON VANN: And Commissioner
4 how are you trying to reach absentee owners with
5 lien sale notifications? Especially seniors who
6 may reside out of state in the winter months?
7 Absentee owners.

8 MR. LAWITTS: Well we send out a
9 mailing to--we have, to the extent that building
10 owners give us the information, if they live
11 somewhere other than the address on the building
12 that they own, and if they do, they're required to
13 give us that information. We send notices
14 including this outreach that we did last year to
15 any address that we have on record for not only
16 that building but that building owner. So we
17 would send a notice to the address of the building
18 itself and if the owner gave us a different
19 address for his or her own residence, we would
20 send a notice to the owner's residence as well.

21 CHAIRPERSON VANN: Has that been
22 successful?

23 MR. LAWITTS: Well I think that was
24 partly how we got these 300 additional customers
25 identified.

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2 CHAIRPERSON VANN: And that's 300
3 of what universe?

4 MR. LAWITTS: Well in Tax Class 1
5 out of the starting 90-day list number of
6 approximately 10,000, it's about 3%.

7 CHAIRPERSON VANN: Um-hum. 97% out
8 there. At what point in the process of
9 identifying seniors, you know, with the different
10 exemptions that we discussed, the ATE, SHE, so on
11 and so forth, who may be eligible, these are
12 seniors who may be eligible for all of these
13 exemptions but are not enrolled in the lien sale
14 deadline. When will you pull their liens from the
15 land sale?

16 MR. SINGLETON: We'll pull right up
17 to the last minute. We did that last year with
18 the Department of Finance--

19 CHAIRPERSON VANN: [Interposing]
20 I'm sorry, I can't--

21 MR. SINGLETON: We did pull people
22 that were eligible for those exemptions up to the
23 last sale date.

24 CHAIRPERSON VANN: So you--

25 MR. SINGLETON: [Interposing] So if

2 someone was self-identifying and they had not been
3 in our system yet, there was a very quick
4 questionnaire that Finance developed and it was
5 sent back to them and they were enrolled. So we
6 were--that was an active process up to the day of
7 the sale.

8 CHAIRPERSON VANN: The day of the
9 sale.

10 MR. SINGLETON: Which was in--

11 MR. LAWITTS: [Interposing] May,
12 early May.

13 CHAIRPERSON VANN: Um-hum. Okay.
14 For the record, as you know, I did not believe in
15 the legislation so I really can't believe in the
16 voluntary effort on the part of DEP to find and to
17 lead to all of those who are eligible who may not
18 have enrolled. I think legislation is required
19 because that will have the force of law and then
20 the City Council will have more leverage to make
21 sure that those things are actually done.

22 I may come back but I know we have
23 several colleagues who have questions as well.
24 And so I will yield to my colleagues. And I've
25 been told that we've been joined by Council Member

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2 Diana Reyna, right next to me, right. Welcome
3 Councilperson. John Liu, I started to say, New
4 York City Comptroller, that' snot correct yet,
5 Council Member John Liu, soon to be Comptroller--

6 COUNCIL MEMBER LIU: [Interposing]
7 Well--

8 CHAIRPERSON VANN: --of the City of
9 New York.

10 COUNCIL MEMBER LIU: Do not count
11 our chickens before they totally hatch yet.

12 Thank you very much Mr. Chairman
13 and I want to thank you Commissioner Lawitts for
14 joining us today. I'm sure--and a lot of this--
15 I'm sure that you sense a fair amount of
16 frustration among Council Members. A lot of this
17 frustration has built up over the years, certainly
18 before you became Commissioner or Acting
19 Commissioner. And in fact a lot of this
20 frustration led us, led this body to be very
21 reluctant to agree to those lien sales because of
22 our interactions on behalf of our constituents
23 with the DEP and the collection procedures.

24 And I think Councilman Weprin,
25 Chairman Weprin put it very well that there was a

2 big disappointment among many of us when the City
3 tried to collect water charges in excess of what
4 actually was necessary to maintain the water
5 system. And I have to say I feel, it feels
6 curious that you would step out of your role as
7 the steward of the water system and talk about the
8 need to collect those charges in excess of what's
9 necessary to maintain the water system in light of
10 the City's finances. I felt that you should have
11 just taken the fifth on that; you shouldn't have
12 said anything about the City's overall financial
13 condition because that's just not your
14 responsibility.

15 But I think Councilman Vann's
16 introduction of this bill which I am a co-sponsor
17 of, is just the first round actually, in trying to
18 address some of the problems that we have seen
19 over the last couple of years with regard to the
20 collection of water charges and the sale of these
21 liens. Now I guess I have a few questions for
22 you.

23 You talk about how there's actually
24 only a small proportion, less than 16% of the
25 liens that are placed on the 90-day notice that

2 are actually sold.

3 MR. LAWITTS: That's correct.

4 COUNCIL MEMBER LIU: Okay. And
5 then during the testimony that you've presented to
6 us today, there seems to have been a number of
7 reasons why a lien would not have actually been
8 sold. Right? Presumably 84% of them, 84% of the
9 liens that were placed on the 90--I'm sorry 84% of
10 the accounts that were placed on the 90-day lien
11 sale notice didn't get sold, is that because all
12 84% were paid off? Or what percentage of that
13 would have been paid off, thus obviating the need
14 to sell those liens?

15 MR. LAWITTS: Right. And you might
16 have missed this in our earlier question--

17 COUNCIL MEMBER LIU: [Interposing]
18 Maybe.

19 MR. LAWITTS: --and answer, Council
20 Member Liu. But out of that 85% as Deputy
21 Commissioner Singleton had testified earlier,
22 there are a number of accounts that we
23 administratively drop out of the lien sale--

24 COUNCIL MEMBER LIU: [Interposing]
25 Well I did hear that--

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2 MR. LAWITTS: --process between the
3 initial 90-day notification and the last day to--

4 COUNCIL MEMBER LIU: [Interposing]
5 Right.

6 MR. LAWITTS: --avoid the lien sale
7 in early May. And that typically is somewhere in
8 the 5% to 7% range. So we're--

9 COUNCIL MEMBER LIU: [Interposing]
10 Well he had not mentioned the 5% to 7%. I mean it
11 is true and I did catch the part where the Deputy
12 Commissioner or the Assistant Commissioner talked
13 about how they were administratively taken off the
14 lien sale list.

15 MR. LAWITTS: Correct. So the--

16 COUNCIL MEMBER LIU: [Interposing]
17 Only 5% to 7%?

18 [Pause]

19 COUNCIL MEMBER LIU: Press the
20 button so the red light is on.

21 MR. SINGLETON: Thank you. 5% to
22 7% that I mentioned were accounts that had some
23 kind of dispute that we felt we were not
24 comfortable moving forward at this sale. The
25 numbers are somewhat higher as I mentioned. There

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2 are other administrative pulls. The largest last
3 year being lis pendens roll of 18--

4 COUNCIL MEMBER LIU: [Interposing]
5 Being the what?

6 MR. SINGLETON: Lis pendens filing
7 pull.

8 COUNCIL MEMBER LIU: Because they
9 are--that's equivalent to--

10 MR. LAWITTS: [Interposing] That's
11 for properties who had missed two or more of their
12 mortgage payments and--

13 COUNCIL MEMBER LIU: [Interposing]
14 And were in danger of being foreclosed.

15 MR. LAWITTS: --having that first
16 action by the bank to identify them as foreclosure
17 candidates.

18 COUNCIL MEMBER LIU: So you've
19 identified 5% to 7% of these lien sales being
20 taken off the sale list because of disputes with
21 the account holders.

22 MR. SINGLETON: Correct.

23 COUNCIL MEMBER LIU: And then I
24 mean my question to you was, you know, what are
25 the reasons or actually what percentage of the 84%

2 that were taken off the lien sale list actually
3 were paid?

4 MR. SINGLETON: I can address that
5 in the numbers. And as posed by the Council,
6 let's just take a look at the rough numbers.
7 There was about \$180 million on that 90-day
8 notice, \$100 million in cash payments came in, \$40
9 million in payment agreements were entered into,
10 and you had a sale of roughly \$20 million. So you
11 had various pulls in the order of about \$20
12 million to \$25 million because obviously some of
13 these numbers are increasing when you have a, you
14 know, process. So that was essentially the
15 breakout. \$100 in cash, \$40 in payment
16 agreements, \$20 in the actual sale and \$20
17 essentially pulled--

18 COUNCIL MEMBER LIU: [Interposing]
19 And this includes all of the commercial properties
20 in question also.

21 MR. LAWITTS: Yes.

22 COUNCIL MEMBER LIU: Is there a
23 breakdown for the residentials?

24 MR. LAWITTS: We can provide that--

25 COUNCIL MEMBER LIU: [Interposing]

2 Up through four families?

3 MR. LAWITTS: Through four
4 families?

5 COUNCIL MEMBER LIU: Well okay,
6 three families, whatever breakdown is convenient
7 for you.

8 MR. LAWITTS: We can provide that.

9 COUNCIL MEMBER LIU: But isn't
10 there some kind of sense? Well let me ask you
11 this. Out of the \$180 million of outstanding
12 water charges that were then placed on the 90-day
13 notice list, what percentage of that was
14 commercial?

15 MR. SINGLETON: That was about \$25
16 million out of the total, so that's about 15% of
17 the total.

18 COUNCIL MEMBER LIU: Okay so the
19 vast majority of that lien sale was for--

20 MR. SINGLETON: [Interposing]
21 Residential.

22 COUNCIL MEMBER LIU: Residential.

23 MR. SINGLETON: Yes.

24 COUNCIL MEMBER LIU: And not large
25 apartment buildings.

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2 MR. SINGLETON: Well--

3 COUNCIL MEMBER LIU: [Interposing]

4 Or do those include large apartment buildings?

5 MR. SINGLETON: That includes large
6 apartment buildings. Out of approximately \$100
7 million in large apartment buildings, those
8 buildings that are in Tax Class 2 so that's
9 anything--

10 COUNCIL MEMBER LIU: [Interposing]

11 I mean--

12 MR. SINGLETON: --four families and
13 above.

14 COUNCIL MEMBER LIU: Is it your
15 understanding that Council Member Vann's bill
16 addresses commercial properties as well as large
17 apartment buildings?

18 MR. LAWITTS: The primary impact
19 that we would feel from the bill is in Tax Class
20 1, the 2 and 3 family homes.

21 COUNCIL MEMBER LIU: Okay. So is
22 it unreasonable for us to expect these kinds of
23 breakdowns? Because I suspect, it's just a
24 suspicion right now that the breakdowns are
25 different for the target class of home owners or

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2 COUNCIL MEMBER LIU: It's kind of
3 hard to make decisions or, I mean, you know,
4 you're basically...

5 MR. LAWITTS: I just want to make
6 sure I understand the question correctly Council
7 Member. You want the breakout for Tax Class 1 of
8 the accounts that were administratively dropped
9 between the initial lien sale notification and the
10 90-day list and the dates the liens were sold.

11 COUNCIL MEMBER LIU: That's just
12 one example actually. What I'm really asking for
13 is testimony relevant to this bill. Right? When
14 you give us all these statistics and then it takes
15 us a lot of time to ask questions to get clarity
16 on what these statistics mean--

17 MR. LAWITTS: [Interposing] Okay.
18 Okay. Well I actually, I believe I do have an
19 answer to--

20 COUNCIL MEMBER LIU: [Interposing]
21 Okay so what's--

22 MR. LAWITTS: --one of your
23 concerns--

24 COUNCIL MEMBER LIU: [Interposing]
25 Sure.

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2 MR. LAWITTS: --Council Member
3 which is the part of the proposed legislation that
4 is most troublesome to us that we've testified
5 would deprive the system of significant amounts of
6 money as well as place building owners at a
7 disadvantage by allowing them to go into two more
8 years of arrears before they're eligible for lien
9 sale.

10 I'll use the statistics for Tax
11 Class 1 for those properties that are currently
12 eligible for lien sale, that currently meet the
13 criteria of owing at least \$1,000 for at least a
14 year. Currently there are 12,000 such accounts
15 that owe collectively \$66 million. If the
16 threshold gets raised to 3 years of delinquency
17 and at least \$1,000, that 12,000 accounts drops to
18 1,500 approximately, and the \$66 million in
19 arrears drops to \$22 million. So that's \$44
20 million of lien sale eligible arrears that will
21 get taken out of this year's lien sale universe
22 for Tax Class 1.

23 COUNCIL MEMBER LIU: Well
24 Commissioner I would actually look at those
25 numbers slightly differently. If you're saying

2 that 12,000 accounts would actually drop down to
3 1,500 accounts if you increased the threshold to 3
4 years, that suggests to me that none of these
5 small residential owners actually have long
6 delinquency periods. Right?

7 MR. LAWITTS: Well.

8 COUNCIL MEMBER LIU: That it does--
9 it's not as if these small home owners go on for
10 years and years and years without paying their
11 water fees. 12,000 accounts drops to 1,500--

12 MR. LAWITTS: [Interposing] Right
13 because we've sold liens for the last two years
14 with the one-year threshold. And we've seen
15 significant percentage--

16 COUNCIL MEMBER LIU: [Interposing]
17 Okay.

18 MR. LAWITTS: --reductions in the
19 number of customers and the number of dollars owed
20 that are seriously delinquent for a period of a
21 year or more.

22 COUNCIL MEMBER LIU: So your
23 testimony is that that number drops significantly
24 because there have already been two year's worth
25 of sales of one-year delinquencies--

2 MR. LAWITTS: [Interposing] That's
3 correct.

4 COUNCIL MEMBER LIU: Even though
5 only 16% of the ones that actually--well actually
6 we don't even know if it's 16% at this point for
7 these Tax Class 1 property owners. Right. But
8 it's still; I mean if you extrapolate those
9 numbers it's still a small percentage of that.

10 MR. LAWITTS: Right. Because most
11 of that 84% paid, either in full or through a
12 binding 5-year payment agreement between the
13 initial notification in February and the last day
14 to escape the lien sale in early May. And as we
15 testified before, Council Member, most of the
16 revenue that the water system takes in from the
17 lien sale is not through the actual selling of
18 liens, it's through the 90-day notice, the
19 subsequent to-day and 30-day notices that drive
20 most of those delinquent customers to come in and
21 pay us in full which is about 40% of those who
22 settled and the remaining 60% who settled have
23 done so through a payment agreement.

24 COUNCIL MEMBER LIU: That, I don't
25 think any of us are lost on the rationale for lien

2 sales. We just--or at least--I'll speak for
3 myself, I'm not convinced that these small
4 residential owners are purposefully flouting the
5 law and refusing to pay their water bills. There
6 are a number of different reasons which is why I
7 had asked for those breakdowns in the first place.
8 You know, one common complaint that I get is that
9 people didn't know that they were on the hook for
10 these water bills. In many cases estimated--they
11 paid estimated bills for years and all of a sudden
12 they would get huge bills because the DEP finally
13 after years of giving them estimated bills decided
14 to true up the bills. And at that point the
15 residents or the residential owners had no
16 recourse, they couldn't prove anything otherwise.
17 So, you know, I mean that's one example.

18 Another example is that they don't
19 get the bills. They don't get the bills. In the
20 case of addresses that are not like a single
21 family home with one unique address, they haven't
22 received the bills so all of a sudden they find
23 their property is placed on lien, or a lien placed
24 on their property. And they didn't even know that
25 they were on the hook for these bills. So that's

2 why I started my questioning by asking for
3 breakdowns of the different reasons why the liens
4 are taken off the lien sale list or the bills or
5 the accounts are taken off the lien sale list.

6 So I think... if you're--again I do
7 fault you for coming to testify according to your
8 own testimony, coming to testify concerning Intro
9 1071 of 2009 in relation to the sale of water
10 liens and you yourself indicated that that the
11 property class target is a very specific one and
12 yet most of the statistics that you cite here are
13 very generalized.

14 And I don't believe that small,
15 residential owners are similar to the entire
16 universe including large apartment building owners
17 and commercial owners. I think you have a very
18 different picture. And what Councilman Vann's
19 bill is actually trying to address is the number
20 of senior who have now had liens placed on their
21 homes for actually relatively small amounts. In
22 some cases they're on fixed incomes. They're not
23 able to pay. In other cases they don't know about
24 it. And then yet in at least one other scenario
25 that I know of, they get trued up bills that they

2 were totally not expecting. So I would ask you
3 to, you know, not look at these just in terms of
4 collection numbers but try to figure out why it is
5 that a home owner or a small residential owner
6 would not even come in to address what is a
7 delinquent bill. I just don't think that there
8 are a large number of New Yorkers out there who
9 get a notice who know that they have a delinquent
10 bill with the City of New York and choose to just
11 totally ignore it. I don't think that happens.
12 And yet you're suggesting based on these
13 statistics, again these are overall statistics
14 that I don't think reflect the property tax class
15 in question, that there's a significant--to me 16%
16 is a significant, 1 in 6 New Yorkers, I don't
17 think 1 in 6 New Yorkers ignores a notice from the
18 City that they have an outstanding bill.

19 So it's hard for me to ask more
20 questions without having real numbers to look at
21 here. When do you think you can provide those
22 breakdowns relevant to the property owners in
23 question as Council Member Vann's bill relates to?

24 MR. LAWITTS: Later this week.

25 COUNCIL MEMBER LIU: All right how

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2 about Friday afternoon then? Thank you. Thank
3 you Mr. Chairs.

4 CHAIRPERSON WEPRIN: Thank you
5 Council Member. We've been joined by a number of
6 colleagues. We have Council Member Melissa Mark-
7 Viverito from the Bronx and Manhattan; Council
8 Member Robert Jackson from Manhattan; Council
9 Member Vincent Ignizio from Staten Island; Council
10 Member Jimmy Oddo from Staten Island; Council
11 Member Jim Gennaro from Queens; and Council Member
12 James Sanders, Jr. from Queens.

13 The next questioner is Council
14 Member Comrie.

15 COUNCIL MEMBER COMRIE: Thank you
16 Mr. Chair. Just to try to follow up on the source
17 of the reason for the questioning which is to
18 understand the amount of people that are dealing
19 with these liens and now that you have them down
20 to, what's the maximum period now that a person is
21 able to or that the City just working to create
22 the lien sale? Is it over a year's worth of
23 delinquencies now? Is it still a 3-year period
24 like it used to be? How many of those are 1-year
25 period liens and how many are now more than a 1-

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2 year period lien?

3 MR. LAWITTS: For water and sewer
4 liens Council Member Comrie and the legislation
5 that was passed in 2007 to authorize water only
6 lien sales the criteria are owing at least \$1,000
7 in unpaid water and sewer charges for a period of
8 at least 1 year, a delinquency--

9 COUNCIL MEMBER COMRIE:
10 [Interposing] So all of your--

11 MR. LAWITTS: --of at least 1 year.

12 COUNCIL MEMBER COMRIE: All of your
13 multi-year liens now have been either addressed or
14 the disputes have been resolved of they've been
15 taken to a lien category, one way or the other,
16 correct? So what we're talking here is most of
17 the--all of the categories are less than \$1,000 or
18 less than 1 year. I just want to be clear on the
19 process and the timing. Do you have any other
20 multiyear disputes that are still out there? As
21 far as people that owe for more than that
22 category--

23 MR. LAWITTS: No. Other than what
24 we've already testified to Council Member Comrie,
25 which is--and again in the last two years, lien

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2 eligibility criteria. That their account became a
3 year older and more in arrears than it was the
4 year before so as the delinquencies age, new home
5 owners become eligible for lien sale.

6 COUNCIL MEMBER COMRIE: Okay. And
7 as you are processing these cases, what kind of
8 progress have you made as far as dispute
9 resolution is concerned? I have a lot of home
10 owners that contact my office and say that there's
11 no way that they have run up the water bill
12 because the meter was off or how have we done--
13 what kind of progress are we making as far as the
14 dispute resolution to actually track what the
15 actual usage was of the bills in question or the
16 people in question?

17 MR. LAWITTS: Right. And as part
18 of the agreement we reached with the Council
19 almost two years ago to authorize standalone water
20 lien sales, we created an Ombuds Office. It's a
21 specific person and his staff, Patrick Genocova
22 [phonetic] with a number, a specific telephone
23 number and the purpose of that office is to work
24 through billing disputes to resolve them, either
25 to resolve them when we're in error or to confirm

2 that the billing is correct.

3 And we certainly if there are any
4 of your constituents or any constituents of any
5 Council Member that feel that they haven't had our
6 customer service group's ear sufficiently to
7 resolve a billing dispute, I would encourage you
8 to have them call our Ombudsperson and we'll help
9 them work through it.

10 COUNCIL MEMBER COMRIE: Okay but
11 can you get us a breakdown of how successful or
12 what kind of rates they are? I mean I do that
13 and, you know, my office does that regularly to
14 deal with disputes but just in general how many
15 challenges regarding erroneous bills, water and
16 wastewater were made in the last couple of years
17 and how many of those challenges have been
18 resolved one way or the other--

19 MR. LAWITTS: [Interposing] Right.

20 COUNCIL MEMBER COMRIE: --we'd like
21 to get that--

22 MR. LAWITTS: [Interposing] Yes we
23 actually--

24 COUNCIL MEMBER COMRIE: --
25 information.

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2 MR. LAWITTS: I'm sorry we do
3 actually have numbers on this.

4 COUNCIL MEMBER COMRIE: Because I'm
5 trying to link the time that people have--

6 MR. LAWITTS: [Interposing] Right.

7 COUNCIL MEMBER COMRIE: --that are
8 dealing with the problems with their payment--

9 MR. LAWITTS: [Interposing] Right.

10 COUNCIL MEMBER COMRIE: --with the
11 ability to deal with a dispute and also then I
12 want to talk about their ability to pay and what's
13 being done to address that.

14 MR. LAWITTS: Right. Well so I can
15 give you the numbers of calls that we got as
16 disputes. It was approximately 4,146 in Fiscal
17 Year '08 and it dropped to 3,759 in Fiscal Year
18 '09. I would--I don't have with me today how
19 those were resolved, the breakdown of the
20 resolution whether they were resolved in the
21 customer's favor or not.

22 COUNCIL MEMBER COMRIE: But you can
23 get that back to us, okay.

24 MR. LAWITTS: Yes.

25 COUNCIL MEMBER COMRIE: But you

2 have that somewhere, you could get that back to
3 us--

4 MR. LAWITTS: [Interposing] Okay.

5 COUNCIL MEMBER COMRIE: --okay.

6 And also I wanted to know how many of those
7 challenges were made by residential customers, if
8 you had that breakdown as well to get back to us.
9 Just to find out how many of the Class 1's were
10 involved in that.

11 MR. LAWITTS: Right.

12 COUNCIL MEMBER COMRIE: Also just
13 to go back to my first question, you said that
14 since, you said earlier in your answer to a
15 question that you believe that the collection rate
16 is going down and even though there's been a
17 downturn in the economy and more people having
18 difficulty paying, you believe that your overall
19 numbers have gone down in the last couple of
20 years.

21 MR. LAWITTS: Well I just want to
22 be clear and I want to unambiguously use the term
23 down. The number of serious delinquencies has
24 been down and the number of dollars in serious
25 delinquencies has been down. So the collection

2 rate has actually been up in terms of what were
3 our serious delinquent customers.

4 COUNCIL MEMBER COMRIE: So you're
5 saying that because of your actions more people
6 are working out either agreements or making
7 payments. But are more people coming to you, a
8 higher level of people with the inability to pay
9 because of their, the change in economic status or
10 because they've been unemployed or because they
11 have, you know, a disruption in their income?

12 MR. LAWITTS: I don't have precise
13 statistics on that Council Member. I do know that
14 occasionally I do receive in my other role as
15 Executive Director of the Water Board,
16 occasionally, a request from a customer to defer
17 payment because they claim that they're unable to
18 pay. That they're not disputing the bill--

19 COUNCIL MEMBER COMRIE:
20 [Interposing] Um-hum.

21 MR. LAWITTS: --but they're just
22 claiming that they're unable to pay.

23 COUNCIL MEMBER COMRIE: And how is
24 that resolved?

25 MR. LAWITTS: We generally

2 encourage them to talk to our customer service
3 people to see if they can work out a payment
4 agreement.

5 COUNCIL MEMBER COMRIE: Okay--

6 MR. LAWITTS: [Interposing] Again
7 to stretch their payments over five years.

8 COUNCIL MEMBER COMRIE: But if they
9 don't--okay if they don't have any ability to pay
10 because they're in a cascade situation 'cause
11 normally when that happens they're not just in
12 arrears with a water bill, they're with
13 everything, their water and sewer charges. Is
14 that then sent over to the Office of Financial
15 Empowerment or the New York City Neighborhoods?
16 Is there a collaboration with other City agencies
17 to--

18 MR. LAWITTS: [Interposing] We.

19 COUNCIL MEMBER COMRIE: --assist
20 the individual--

21 MR. LAWITTS: [Interposing] Yes we
22 try to refer them if they're eligible for any of
23 those forms of assistance either through the
24 City's Human Resources Administration or the
25 Center for Neighborhoods or the Department of

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2 Housing Preservation and Development and the
3 Department for the Ageing.

4 COUNCIL MEMBER COMRIE: Um-hum.

5 Well I know that--so that--and that's done on an
6 individual basis. I know that you do it as part
7 of your community outreach and we've done it
8 together successfully a couple of times. And I
9 think we need to do it again this winter because I
10 still see that the rate of water lien notices are
11 still pretty high especially in all of the Council
12 Districts adjacent to mine and in mine as well, to
13 try to bring together the combination of all of
14 the people that could help individuals who are
15 having problems with paying their bills. And have
16 you started to formalize those agreements that
17 you're working with the Center for New York City
18 Neighborhoods, the HPD and other nonprofit
19 community groups engaged in foreclosure prevention
20 programs and home owner relief aid programs?

21 MR. LAWITTS: Yes we've been
22 engaging those other agencies since before the
23 2007 lien sale authorization was passed. And then
24 we've been following up with those agencies and
25 trying to have eligible building owners linked to

2 those agencies if they qualify.

3 COUNCIL MEMBER COMRIE: And is that
4 part of your regular assessment for each case that
5 comes in individually or is that just done when
6 you have a community outreach meeting?

7 MR. LAWITTS: No that's whenever
8 someone comes in to--or calls our Ombudsperson to
9 try and resolve their particular payment issue if
10 we believe that they might be eligible for one of
11 these safety net programs then we make that
12 referral.

13 COUNCIL MEMBER COMRIE: Okay. And
14 all of your people in your Dispute Resolution
15 Office or your Ombudsman's Office is trained to
16 make those connections and has the list of
17 programs that they can offer to people?

18 MR. LAWITTS: Yes. That's one of
19 the primary purposes of having that office is that
20 they have a set of people that are knowledgeable
21 about the safety net programs as well as the
22 reasons why individuals fall behind in their
23 payments.

24 COUNCIL MEMBER COMRIE: And is that
25 something that a home owner or a person with a

2 bill can do over the phone or is that something
3 that can be done only in person?

4 MR. LAWITTS: You know, it can be
5 done either way.

6 COUNCIL MEMBER COMRIE: And they
7 can take all of their information necessary and
8 process it and get back to them with the proper
9 referral agency all over the phone? Can this be
10 done online?

11 MR. LAWITTS: Well our resolution
12 process is one that's done--they can originate the
13 request online. And we have forms available
14 online. You know, typically because it's a
15 problem, usually a long-standing problem that
16 needs to be resolved that it requires a certain
17 amount of live interaction either over the phone
18 or in person with one of our specialists.

19 COUNCIL MEMBER COMRIE: And for
20 those people that are not able to maintain their
21 agreements, you said that the payment agreement
22 could be over a 5-year period but as soon as
23 someone is delinquent on the payment agreement,
24 what is the ability of them to create another
25 agreement under the new law?

2 MR. LAWITTS: We try to work with
3 the customers because the lien sale is a last
4 resort. And so, you know, for example if someone
5 owes \$1,000 and signs up for a payment agreement,
6 that's 60 payments over 5 years. And that's
7 approximately \$16 a month plus interest to take
8 care of that \$1,000 arrears. You know, we have
9 worked with actually a large number of customers
10 who did fall behind in their payment agreements
11 and so even though technically they were in
12 default in order to maintain eligibility for a
13 payment agreement you have to be current on each
14 one of the monthly payment agreement payments as
15 well as remain current on each one of your current
16 quarterly water bills for the vast majority of our
17 customers--

18 COUNCIL MEMBER COMRIE:
19 [Interposing] Right.

20 MR. LAWITTS: --who are billed
21 quarterly rather than annually. Despite that and
22 a number of people do technically go into default
23 but whenever we can we will work with them to
24 bring them back to current status by allowing
25 them, for example, in the example I used earlier,

2 if they missed 2 monthly payments of \$16 each, if
3 they pay us that \$32 and they're current on their
4 current water bill, we'll allow them to continue
5 in the payment agreement.

6 COUNCIL MEMBER COMRIE: Okay. And
7 the payment agreements are done monthly and the
8 bills are done quarterly, is there an opportunity
9 to link that so they could pay that online or pay
10 that during the quarterly bill as opposed to
11 paying it monthly so that there's a--and how is
12 that done? Is the monthly payment done online or
13 does that have to be done in a hard mail
14 situation?

15 MR. LAWITTS: The monthly payment,
16 we have in the last year begun providing payment
17 books like mortgage lenders do or educational loan
18 providers do so that there is a hard copy monthly
19 reminder of the precise amount that's owed each
20 month.

21 COUNCIL MEMBER COMRIE: Um-hum.

22 MR. LAWITTS: Those are to support
23 payments by mail. Do we accept electronic checks?

24 [Off mic]

25 MR. LAWITTS: And so that just like

2 any other payment that can be made to the City
3 over the City's website through an electronic
4 debit, we accept those as well for the monthly
5 payment agreement payments.

6 COUNCIL MEMBER COMRIE: Okay. But
7 are you finding that the amount of people that are
8 making agreements are holding their agreements or
9 do you have statistics on how many people have
10 defaulted on those agreements?

11 MR. LAWITTS: We have...

12 COUNCIL MEMBER COMRIE:

13 [Interposing] Is there--

14 MR. LAWITTS: [Interposing] Approx-
15 -a default rate on those payment agreements that's
16 between 40% and 45% which is a long-term default
17 rate that we've had going back well before the
18 lien sale. One of the concerns of course is that
19 with the payment incentive programs that we
20 offered two years ago as well as this past year's
21 lien sale, as well as the service termination
22 program for single family homes where signing a
23 payment agreement is also a way of avoiding
24 service termination, is that we have more payment
25 agreements outstanding than we did before the lien

2 sale. So the percentage of agreements that are in
3 default is a fairly constant number but it's on a
4 significantly larger base now.

5 COUNCIL MEMBER COMRIE: Okay. And
6 as you work through that, so that's where it's
7 showing up with the bad economy, more people are
8 taking agreements even though they don't have the
9 ability to pay. So it's something that I think
10 we're going to have to continue to work on,
11 working with those other agencies to try to do
12 intervention for these people as soon as they come
13 in. And I hope that your staff would do the
14 necessary referrals for people even if they're
15 just automatically taking a payment agreement
16 because it seems that they're not--they're taking
17 the payment agreement to get rid of an immediate
18 problem but their long term problem is still
19 existing.

20 The payment incentive program, was
21 that--how successful was that program this year
22 and do you think its something that could be
23 offered over a secondary period as well or just
24 doing it, closing it down on April 7th has worked
25 or can we do a second period--

2 MR. LAWITTS: [Interposing] Well
3 Council Member, you and the other Council Members
4 might remember that we developed the payment
5 incentive programs to be a one-time only incentive
6 to achieve several goals, one of them to get a
7 large number of our customers to be current; to
8 eliminate in many cases accounts receivable that
9 had been building up over years. And because as
10 we've testified and as some of you have already
11 observed this morning, we wanted to be able to get
12 past what were a lot of disputes that had grown up
13 around estimated bills over a number of years.
14 And so we structured the payment incentive
15 programs to waive any late payment or interest
16 charges and to cap the amount of water usage at,
17 as Deputy Commissioner Singleton had said, \$2 per
18 day per residential unit, as a way of eliminating
19 any long-standing disputes about the amount of
20 water that might or might not have been consumed
21 during the period of dispute.

22 That provided a benefit to
23 residential customers between 20% and 30%, the
24 combination of eliminating the late payment
25 charges and capping the billing at \$2 a day.

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2 COUNCIL MEMBER COMRIE: Um-hum.

3 MR. LAWITTS: And we had very high
4 percentages, I don't have the exact percentages
5 with me today, of--well maybe I do, of people
6 subscribing to those. But they were intended to
7 be one-time programs like tax amnesty programs
8 where the delinquent taxpayer gets, you know, a
9 one-time chance to be brought up to date by
10 eliminating penalties, late payment charges and in
11 this case we feel the majority of the reason for
12 billing disputes. And so we offered one program
13 that was for single family homes, one program that
14 was for multifamily homes and businesses, both of
15 those during the--in the period leading up to the
16 Fiscal Year 2008 lien sale.

17 And for Fiscal Year 2009 we ran a
18 payment incentive program for multiuse buildings
19 that were mixed residential and commercial
20 buildings that weren't part of the previous two
21 payment incentive programs as well as for
22 condominiums.

23 [Off mic]

24 MR. LAWITTS: Condominiums which
25 also were not part of the original payment

2 incentive program. So in those three programs
3 covering the--spanning the two fiscal years we
4 felt we covered the vast majority of property
5 types that could and should want to take advantage
6 of these incentives. But we had--and I do have
7 the statistics here. For the single family home,
8 close to 60% of the eligible participants did take
9 advantage of it. For the multifamily program
10 which also included the multifamily portion of Tax
11 Class 1, that anyone who is eligible for lien
12 sale, 80% participated in that. And last year's
13 which was a much smaller population of mixed use
14 buildings and condos, it was about 56%.

15 COUNCIL MEMBER COMRIE: Okay. So
16 you, it sounds like those programs have been very
17 effective and I would hope that we would consider
18 doing them again. I'm told I have to wrap up so I
19 can't ask any more questions but I would hope that
20 we would look at making sure that there is an even
21 deeper linkage with DEP and the other providers
22 that can help with dealing with people that are
23 probably in arrears with all of their bills. And
24 I would encourage you to continue the payment
25 incentive program as well since that did have a

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2 high rate of response and people that, you know,
3 were looking to save something so that they could
4 pay off and clear off their bills. And I thank
5 you. And I also would re-pledge on the efforts of
6 my office for any community outreach that needs to
7 be done. And I think that we've done it
8 successfully. We've been able to bring our number
9 down but I'm still at number 5 so I want to get to
10 a lower number even still of the amount of people
11 that are dealing with lien sales. Thank you.

12 MR. LAWITTS: Thank you Council
13 Member Comrie.

14 CHAIRPERSON WEPRIN: We still have
15 a number of Council Members that want to ask
16 questions. So if you could try to limit your
17 questions to two questions, if possible. We've
18 been joined by Council Member Vincent Gentile from
19 Brooklyn. And the next questioner is Council
20 Member Lew Fidler.

21 COUNCIL MEMBER FIDLER: I'm glad
22 you added if possible. Good morning Commissioner-
23 -

24 MR. LAWITTS: [Interposing] Good
25 morning.

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2 COUNCIL MEMBER FIDLER: --first a
3 couple of comments. I, you know, it was a number
4 of years ago and quite a few years ago that we
5 began to bill people for water use by metering it.
6 And I remember at the time, religious and
7 charitable organizations jumping up and down and
8 saying this was a backdoor way of property taxing
9 organizations that were otherwise not supposed to
10 be taxed. And I think that kind of gets to the
11 heart of this \$129 million issue that Chairman
12 Weprin raised in his opening comments. And, you
13 know, it's why so many of us feel so strongly that
14 the water rates ought to be for water use. I
15 don't have a problem if I go up to a gas pump and
16 I take 20 gallons of gasoline, paying for 20
17 gallons of gasoline, you know, 'cause I'm using
18 it. And water ought to be done the same way. We
19 shouldn't be funneling money into the general
20 fund. And you as the steward of the water system
21 in the City ought to be advocating for that
22 position. And I just want to agree with the
23 Chairman in that regard.

24 But I also want to compliment you.
25 And I want to compliment your agency and Finance

2 mindful of the circumstances we find ourselves in
3 the City right now which, you know, is
4 affordability. And, you know, the Chairman ticked
5 off a number of ways that we have made this City
6 less affordable and in particular at this
7 particular time when it is so hard to make ends
8 meet when we are in fact in a foreclosure crisis
9 and we're not coming out of it, whether or not
10 some additional time might make some sense,
11 whether it's three years or two, might make some
12 sense so that we're not exacerbating a problem
13 that we all know already exists. And I will
14 disagree a little bit with Comptroller-almost-
15 elect Liu and say that people ignore bills all
16 right until, you know, if they're in financial
17 distress, people ignore bills and they pay the one
18 that's barking most loudly. All right. And so
19 the 90-day notice, well, you know, I know I've got
20 90 days. And then the 60-day notice, I've got 60
21 days. And the 30-day notice, now I'd better get
22 off my behind and do something.

23 So I understand the psychology of
24 it all but I would also point out to you that the
25 entire amount of money on the list for these

2 delinquencies is less than the rent payment by a
3 factor of six. So, you know, we have to put
4 everything into perspective. If we're going to
5 loosen the noose around those people who are in
6 the financial distress to think that's the reason
7 why people don't pay their water bill more often
8 than not, not that they didn't get it and they're
9 ignoring it, because they're in financial
10 distress. Bear in mind that we could, you know,
11 we could loosen the noose on the water system by
12 not charging them rent and so that's what ties it
13 all back around.

14 So I just want to ask you about the
15 process. You know, someone is now in delinquency
16 for a year. Then they get a 90-day notice, is
17 that correct?

18 MR. LAWITTS: Right. If they're in
19 delinquency for a year and their amount in
20 delinquency is at least \$1,000.

21 COUNCIL MEMBER FIDLER: Okay. And
22 at the end of that 90-day period, let's say they
23 have not responded. What's the next step in the
24 process?

25 MR. LAWITTS: If we haven't dropped

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2 them off the list for any reason--

3 COUNCIL MEMBER FIDLER:

4 [Interposing] Right.

5 MR. LAWITTS: --any administrative
6 reason or--and if they have neither paid in full
7 nor signed a payment agreement, when the May
8 deadline elapses then their property, the lien on
9 their property can be sold.

10 COUNCIL MEMBER FIDLER: Who buys
11 then?

12 MR. SINGLETON: It's essentially a
13 lien trust that buys it. The general public, you
14 couldn't buy your neighbor's lien for instance.
15 It's a trust that's approved by the City who at
16 some point purchases this package of liens in its
17 entirety, both water and taxes obviously--

18 COUNCIL MEMBER FIDLER:

19 [Interposing] And so it's the same process as when
20 we sell a tax lien. It goes--

21 MR. SINGLETON: [Interposing]

22 Correct.

23 COUNCIL MEMBER FIDLER: --to a
24 trust like NYCTL or one of those and they then own
25 the lien. Now does the bill, the water bill, the

2 next water bill that the consumer get now reflect
3 a zero because NYCTL has picked up the lien?

4 MR. SINGLETON: That lien sale, we
5 make that list 30 to 60 days prior to that 90-day
6 list. So obviously there's going to be
7 consumption over that 150 days. So yes the bill--

8 COUNCIL MEMBER FIDLER:
9 [Interposing] But the arrears are gone--

10 MR. SINGLETON: [Interposing] The
11 arrears would come off, yes--

12 COUNCIL MEMBER FIDLER:
13 [Interposing] Okay the arrears come off.

14 MR. SINGLETON: --the arrears are
15 taken off our system.

16 COUNCIL MEMBER FIDLER: All right.
17 And so until the unhappy day when NYCTL and the
18 trust gets in touch with you and say by the way
19 that last bill you just got, you really still owe
20 the money, you know, that's the date of reckoning.

21 Now. My question is have you
22 followed--well before I ask you that, I know, but
23 I assume, I want to be sure everyone else knows.
24 At some point in time the trust may foreclose on
25 the lien, is that correct?

2 MR. SINGLETON: The trust has a
3 whole series of processes that they go through.
4 If all of those processes bring no result, no
5 payment, eventually they could move to foreclose
6 on the property based on that lien yes that is
7 correct--

8 COUNCIL MEMBER FIDLER:
9 [Interposing] How long does that races take? Are
10 you following these after you sell them?

11 MR. SINGLETON: We are not
12 following the post-sale dispensation of those
13 funds right now. I know in prior--

14 COUNCIL MEMBER FIDLER:
15 [Interposing] You've been joined at the rostrum
16 here by someone who may know.

17 MR. SINGLETON: Sam Miller.

18 MR. SAM MILLER: It's--hi. It's
19 Sam Miller, Assistant Commissioner of the
20 Department of Finance.

21 Typically it's 18 months to 2
22 years, the foreclosure process, if you don't pay
23 the lien servicer.

24 COUNCIL MEMBER FIDLER: is there a
25 minimum statutory period before they can foreclose

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2 on the lien?

3 MR. SAM MILLER: About a year, six
4 months. An even bigger expert than myself is
5 coming over here.

6 MS. MARGARET DENATIO: I'm Margaret
7 Denatio, the Tax Ombudsperson at Finance.
8 Basically the way the statute was written was that
9 the servicing agents have to send out a 6-month
10 interest notice. If that is ignored they can
11 start the foreclosure process by getting all the
12 paperwork together to be filed in the courts. The
13 next step would be a 2nd 6-month notice. If that's
14 ignored, then the file the Order to Show Cause, go
15 through all those steps.

16 Then 18 months into the process,
17 they're wrapping things up and it's approximately
18 2 years where they're actually conducting an
19 auction.

20 COUNCIL MEMBER FIDLER: So they are
21 not... well actually that last number is a variable
22 depending on whether or not someone comes in and
23 defends themselves on the Order to Show Cause but
24 so you have the year of arrears, then you have the
25 90-day notice. Then you have a period of time

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2 before it is sold. Then there is a statutory year
3 before the trust can foreclose.

4 MS. DENATIO: That is correct.

5 COUNCIL MEMBER FIDLER: Okay.

6 MS. DENATIO: And this, the trust
7 is obligated by law to mail notices constantly,
8 publicize in the paper when they're going to do
9 the auction. There are requirements that they
10 must meet as well--

11 COUNCIL MEMBER FIDLER:

12 [Interposing] All right.

13 MS. DENATIO: --it's not just...

14 COUNCIL MEMBER FIDLER: Now I've
15 never represented anyone having to deal with the
16 trust on a water lien but I know that when you
17 deal with the trust on tax liens, they're
18 impossible. They are, I mean there's just no
19 talking to them.

20 You know how much that--let's say
21 it goes in with a \$1,000 delinquency at the end of
22 a year. Can you tell me what the bill is the
23 minute it goes to the trust? How much are they
24 marking that up at that point in time? Because to
25 me that's--all of what you've told me sounds very

2 fair. That's the crux of the question, you know,
3 by delaying the sale of the tax lien for a period
4 of time, all right, I don't know that we're
5 prejudicing the water users all that much based on
6 the numbers but will, you know, will we be saving
7 people critical amounts of money on this burden.
8 How much does it get marked up--?

9 MS. DENATIO: [Interposing] There's
10 an advertising cost that's associated to the lien
11 sales; it averages approximately \$200 to \$300 per
12 property included. There's the 5% surcharge
13 that's in the statute and then the interest rate
14 goes from 9% to 18% on the finance site. It goes
15 from 9% to 18% unless they were already being
16 charged 18% so it would stay 18%.

17 COUNCIL MEMBER FIDLER: Why would
18 they already be charged 18%--?

19 MS. DENATIO: [Interposing] Their
20 assessed value is more than \$250,000.

21 COUNCIL MEMBER FIDLER: All right.
22 So that's not likely. I mean we're not--we're
23 talking about the one, two--

24 MS. DENATIO: [Interposing] Right.

25 COUNCIL MEMBER FIDLER: --three

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2 family home owners here. So you have the 5%, you
3 have the kick to 18%, you have the advertising
4 charge of a couple of hundred dollars, so, you
5 know, is anybody following to see what the final
6 payoffs that are reached with the trust are as
7 opposed to the \$1,000 that it started out at?

8 MS. DENATIO: We do have those
9 figures and we can provide them if need be--

10 COUNCIL MEMBER FIDLER:

11 [Interposing] See I--well yes, need be. Because I
12 think to me that's the heart of this question.
13 All right. All things aside, I think the process
14 itself probably does lend itself to a reasonable
15 period of time for someone who is ever going to
16 have the ability to pay and, you know, there are
17 options, you know, my colleagues have referenced a
18 number of things--other things that this bill does
19 that should be done. But my concern is that in
20 this economic climate in this City, to push these
21 properties into the trust system is adding yet
22 another charge that's going to make it more
23 difficult for people to pay. And there's no
24 particular benefit to the taxpayer of that
25 additional money. It is not going to the general

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2 fund. It's not going to water, to the Water
3 Board. It's going to the administration of this
4 trust. So, you shake my finger no.

5 MS. DENATIO: No, no. The trust is
6 backed by bonds. Once the bonds are paid in full,
7 then the excess money is the City's.

8 COUNCIL MEMBER FIDLER: Right. I
9 understand that. The excess money, so it's, you
10 know, look, we could make this, you know, the flip
11 side of this question is we could make water free
12 and, you know, wonderful, right? And then the tax
13 payer's going to pay for that. The other side of
14 this is we could double the price of water and put
15 money into the general fund for no particular
16 reason. Now that's what the trust, you know, will
17 do absent the cost of administering the trust
18 which is significant. And I know that once you go
19 to foreclosure on the trust, you are adding
20 enormous legal fees to the trust as well. A
21 lawyer gets paid for that. The fee, I am sure, to
22 foreclose on a \$1,000 water lien is probably at
23 least \$1,000 'cause I've seen the bills on tax
24 liens. So that's the crux of the issue.

25 I'd like to know from, you know,

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2 from your statistics what the ultimate cost to
3 the, you know, compared to the original charge,
4 how much is it getting marked up by the time it's
5 eventually paid or foreclosed upon by the trust?
6 That to me is what the issue is about. So I guess
7 later this week we'll get that answer, right?
8 Thank you.

9 CHAIRPERSON WEPRIN: Thank you
10 Council Member. We've been joined by Council
11 Member, almost Public Advocate-elect, Bill
12 deBlasio. And the next questioner is Councilman
13 James Sanders, Jr.

14 COUNCIL MEMBER SANDERS: Thank you
15 Mr. Chair, and to the Chairs, a very good hearing.
16 I am here to try to put a human face to this
17 problem. I represent the number 2 District in New
18 York City, the 31st, southeast Queens in water
19 liens, less than \$5,000. I preface my statement
20 with a little philosophy.

21 The European philosopher Disraeli
22 once said that there are three types of lies:
23 lies, damned lies and statistics. Gentlemen,
24 behind this cold piece of paper lies a bunch of
25 people hanging on to the American Dream by their

2 thumbnails. We have to understand that our role
3 in government is to support the people, to find
4 ways of making sure that they move forward. I
5 personally am tired of speaking to people and
6 saying why government can't be on their side in
7 this foreclosure process.

8 This is a reflection of the
9 foreclosure problem that we're dealing with. Make
10 no bones about it. We are piling on to people in
11 a time when they cannot afford to hold on.
12 Charles Dickens himself couldn't think of a better
13 story to write than the one we're writing here
14 every day of how widows, literally widows, are
15 being forced into the street while everybody finds
16 nice, clean, crisp ways of looking at it.

17 We're not looking at people. We're
18 merely looking at numbers. We're not seeing
19 peoples' dreams, their whole idea of holding onto
20 America slipping away. We're looking at charts
21 and statistics, graphs and things of this nature.

22 Aren't we fighting two different
23 battles here? In a few days the Mayor will
24 announce his--he's going to soup up or step up his
25 ways of fighting foreclosure. I trust that this

2 will be one of those things that our Mayor is
3 going to mention here. I understand government.
4 I understand a little something about government.
5 I understand that someone has to pay for the water
6 that comes in. I understand that all of these
7 things, we're not--no one is asking for something
8 for nothing. But I also understand if a larger
9 portion of your budget is being used for other
10 purposes than water, wouldn't it be wise, first
11 things first, to stop that, than to attack people
12 with \$1,000, 50--whatever the amount? Wouldn't it
13 be wider for all of us to join in and say stop
14 raiding the Water Board. Stop raiding this amount
15 of money so that we can talk about real money
16 coming in here. Then we can give a longer period
17 for people to pay these bills. Council Member
18 Comrie is right. We need to return to that
19 concept of creating an extended payment plan and a
20 way that people can pay without any penalties.
21 Otherwise we are just simply writing new chapters
22 that a future Charles Dickens will speak of.

23 The straw that broke the widow's
24 back, on top of her incredible foreclosure
25 problem, predatory lending problem, there she goes

2 with the next bill. And dealing with depression,
3 dealing with all of those problems, she's supposed
4 to handle this. I urge all of us, the regulation-
5 -the law that we're speaking from or the bill
6 rather that we're speaking from, I almost said
7 Assembly Member, from Council Member Vann is too
8 modest. Way too modest. We should be finding a
9 way to put a moratorium on all of this and allow
10 people the right to hold onto America.

11 Well. Just my heart responding, I
12 just have to--you see, even after you finish, I've
13 got to go back and deal with these people coming
14 to me and they're going to be asking is there
15 anything that we can do to hold on. And from
16 government every step of the way from Federal,
17 State and City, has failed these people something
18 awful. This is not our best moment. This is one
19 of our most shameful periods. I end by saying
20 this--and it is foreclosure. This foreclosure
21 crisis which we will mask and call it water, this
22 foreclosure process will end in the largest
23 transfer of black wealth since the Great
24 Depression, the largest transfer of Latino wealth
25 since the Spanish American War, and the largest

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2 transfer of Asian wealth since the internment
3 camps. We should not participate in this, all of
4 us would draw our heels in and say wait a minute.
5 Every step of the way, we've either got to be for
6 the American people or for the corporations. And
7 I choose to be with the American people at this
8 time. Thank you very much Mr. Chair.

9 CHAIRPERSON WEPRIN: Thank you
10 Council Member. Council Member Helen Sears.

11 COUNCIL MEMBER SEARS: Well thank
12 you Mr. Chair. First I just have a couple of very
13 brief questions. I want to thank DEP because
14 certainly you have been extremely cooperative in
15 my District and I want to thank all of the staff
16 and everyone for the good work that you have done
17 in my District.

18 MR. LAWITTS: Thank you.

19 COUNCIL MEMBER SEARS: Just a
20 comment to Councilman Sanders, is that yes, the
21 American Dream and Americans, but I have to tell
22 you, if we're going to think about people we also
23 have to think about the ones that very sincerely
24 pay their bills and also have a struggle paying
25 those bills. And when other people don't pay

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2 them, those people have to pick up the cost.

3 So I think where the issue is is we
4 have to look, and I think the Council has to go
5 back to the drawing board and look at this whole
6 issue in the next term very seriously about the
7 problems that we have on both sides of doing that.

8 And my question is that in the
9 agreed payments, you said there are about 40% or
10 45% where they were in default.

11 MR. LAWITTS: Correct.

12 COUNCIL MEMBER SEARS: What happens
13 with that 40% or 45%? What do you do with them?

14 MR. LAWITTS: Well as we had said
15 earlier Council Member Sears, we try to get them
16 back to being current so in the example I used for
17 someone who owes \$1,000 and has a monthly payment
18 that's about \$16 in order to stretch that \$1,000--

19 COUNCIL MEMBER SEARS:

20 [Interposing] Um-hum.

21 MR. LAWITTS: --over a 5-year
22 period If they've missed 2 of those payments we
23 try to get them current by saying pay us the \$32.
24 And we'll allow the payment agreement to continue.

25 COUNCIL MEMBER SEARS: All right.

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2 MR. LAWITTS: For those who don't,
3 and don't cure their default on the payment
4 agreement, if their outstanding balance is above
5 the threshold for lien sale eligibility, that is
6 if their outstanding balance remains above \$1,000
7 for at least a year then they would go back to
8 being in the lien sale pool for this year.

9 COUNCIL MEMBER SEARS: So you
10 actually, if they are in default, just to
11 understand, that they would allow to make other
12 arrangements during that period? I thought that
13 if they were in default those payment agreements,
14 agreed payments stopped.

15 MR. LAWITTS: That's how the
16 payment agreements are structured. They're, you
17 know, they allow the building owner to stretch
18 payments over 5 years or 60 payments but--

19 COUNCIL MEMBER SEARS:
20 [Interposing] No I understand that.

21 MR. LAWITTS: --but they do have
22 default provisions like most other payment
23 agreements and credit agreements would. Where if
24 they miss two monthly payments, we're allowed to
25 demand the entire balance due. However as we

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2 said, we want to work with the customers--

3 COUNCIL MEMBER SEARS:

4 [Interposing] Um-hum.

5 MR. LAWITTS: --we want to give
6 them every opportunity to remain current. So if
7 there were some circumstances that caused the
8 customer to miss a couple of payments but that
9 customer can make up that difference and bring him
10 or herself back to current status, we'd rather
11 have that than--and have that customer stay
12 current, we would rather have that than put one
13 more property into the lien sale pool.

14 COUNCIL MEMBER SEARS: Okay. So
15 when that happens, this is where Finance comes in.
16 Is there a connection between Finance and what you
17 are prepared to do in default to find out where
18 they are with taxes? Because I find it very
19 difficult, see that someone in an agreement,
20 agreed payment, and if it's \$1,000 stretched over
21 5 years, you're talking about very, very small
22 monthly payments.

23 MR. LAWITTS: Correct.

24 COUNCIL MEMBER SEARS: Where are
25 they in paying their property taxes? Surely they

2 must be in the same problem--

3 MR. LAWITTS: [Interposing] Well
4 usu--

5 COUNCIL MEMBER SEARS: --so is
6 there a joining of the minds or the linking of the
7 computers so that you would know where they were
8 in their property taxes 'cause they're certainly
9 more than what they are. And I'm not so sure how
10 property taxes may be stretched out. Because
11 there's got to be a correlation and a link between
12 the two of them.

13 MR. LAWITTS: Well sometimes
14 Council Member, you may recall and the other
15 Council Members may recall that one of the reasons
16 we had requested the legislation that the Council
17 passed two years ago was because there was not a
18 correlation, a strong correlation--

19 COUNCIL MEMBER SEARS:
20 [Interposing] Um-hum.

21 MR. LAWITTS: --between paying
22 property taxes currently and paying water bills
23 currently. And we found that of all of the water
24 customers who were seriously delinquent on their
25 water bills, delinquent by a year or more, that

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2 70% to 80% of them were currently with their
3 property taxes. And that's the primary reason we
4 had asked for a water lien only sale because with
5 each year that had elapsed over the previous ten
6 years, as property tax liens had been sold and
7 higher and higher percentages of property owners
8 had become current on their property taxes, we
9 were getting smaller and smaller returns by being
10 able to piggyback off of property tax lien sales.

11 COUNCIL MEMBER SEARS: I understand
12 what you're saying but if 70% to 80% pay their
13 taxes, did the 20% to 30% fall into your category
14 of default on water payments?

15 MR. LAWITTS: Well that's what I'm
16 saying is that out of all of our customers who
17 were--

18 COUNCIL MEMBER SEARS:
19 [Interposing] No I understand that.

20 MR. LAWITTS: --seriously
21 delinquent--

22 COUNCIL MEMBER SEARS:
23 [Interposing] Um-hum.

24 MR. LAWITTS: --the vast majority
25 were current on their property taxes.

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2 COUNCIL MEMBER SEARS: Okay. So it
3 seems to me and I'm going to end here but I really
4 think that the City Council, because I'm not on
5 this bill and I have very mixed feelings about it
6 and this hearing was really relating to this bill,
7 and I'll talk with Councilman Vann about that,
8 'cause I certainly like to support my colleagues
9 on what they put forward. I remember when we
10 voted to allow these, the one year. I had gone to
11 actually all of the civic associations in my
12 District and most of them had some very strong
13 feelings about that, that bill that we passed
14 because they felt that they were very, very loyal
15 in paying their water bills. And they are people
16 who live in co-ops; the co-ops had to pay them.
17 They were living on fixed incomes. They bought
18 those co-ops when they were very, very new and
19 very small in amount. So there's a large mixed
20 feeling in the District about that but I do think
21 that somehow the Council has to put together and
22 really come forth with what gives with the
23 property taxes and the water liens. They've got
24 to connect better because there's a vast confusion
25 about it. And the public, if we have layers upon

2 layers of this complexity, I can tell you the
3 public wouldn't understand one bit of it. All
4 they know is the bottom line of their bills. And
5 where I think it behooves government is to
6 absolutely remove those layers of complexity, more
7 than going directly to the bottom line of what
8 that bill is, and then in removing those
9 complexities would you be able to service our
10 constituents better.

11 So I want to thank you. Thank you
12 and Councilman Vann, I'll be happy to talk about
13 this bill with you. Thank you Mr. Chair.

14 CHAIRPERSON WEPRIN: Thank you. I
15 believe Council Member Sanders had a very brief--

16 COUNCIL MEMBER SANDERS:

17 [Interposing] Rebuttal. [Chuckling]

18 CHAIRPERSON WEPRIN: Council Member
19 Sanders.

20 COUNCIL MEMBER SANDERS: My
21 beloved--

22 CHAIRPERSON WEPRIN: Sanders, Jr.

23 COUNCIL MEMBER SANDERS: --Council
24 Member Sears made some statements and among them
25 were that she implied that, of course, she said

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2 that there were those paying their bills on time
3 and of course they would be or are, hum, not happy
4 with any breaks to anyone who does not pay their
5 bills on time. I think that she has missed the
6 point totally by failing to understand that--or
7 failing to recognize, there you go, that there are
8 a lot of this money that we're all talking about
9 is being taken away from the purpose that people
10 in theory are paying to do--

11 COUNCIL MEMBER SEARS:

12 [Interposing] Well.

13 COUNCIL MEMBER SANDERS: --so if we
14 were serious about everyone paying and everyone
15 doing the right thing, then we should start at the
16 top of government. Otherwise we are simply going
17 to pit poor workers against poor workers, middle
18 class against middle class people. One check away
19 from poverty versus middle class people; one check
20 after poverty--

21 COUNCIL MEMBER SEARS:

22 [Interposing] You're absolutely right. I don't
23 miss the boat and that's why I've said, the
24 misunderstanding is that it behooves government to
25 remove this confusion and these complexities of

2 separating--because what Finance does, what the
3 water bill does, going to the general fund is kind
4 of wrong because that in itself is a subterfuge
5 for the public. Because they think that anything
6 that gets collected, all of it is going back into
7 the water system and it's not. And that's the
8 bottom line. So the fact is that we need to be
9 able to set the record straight and do it by
10 legislation if necessary or work with the agencies
11 to clear up their regulations.

12 COUNCIL MEMBER SANDERS: We are in
13 basic agreement.

14 COUNCIL MEMBER SEARS: That's what
15 oversight is about. So thank you very much.

16 CHAIRPERSON WEPRIN: Thank you.
17 Council Member Robert Jackson had to leave but he
18 asked me to ask a question on his behalf which I
19 will. And then I'm going to turn it over to Chair
20 Vann for a couple of comments.

21 Commissioner Lawitts, according to
22 your testimony if a lien is in dispute it is
23 administratively dropped off. And Council Member
24 Jackson wants to know is it dropped off because
25 the particular consumer is forced to enter into an

2 agreement to avoid a foreclosure sale?

3 MR. LAWITTS: No if we drop a
4 property from the lien sale list because of a
5 recognized dispute about the bill, that property
6 is dropped without requiring the customer to enter
7 into a payment agreement.

8 CHAIRPERSON WEPRIN: Okay so in
9 other words you'll drop it off even if they're not
10 signing a payment agreement.

11 MR. LAWITTS: Right. We'll still
12 pursue getting payment for the amount that we
13 believe is not in dispute but we'll drop it off of
14 the lien sale list.

15 CHAIRPERSON WEPRIN: But even if
16 they don't agree to a payment agreement you can
17 negotiate something without--short of a payment
18 agreement and it'll still be dropped off.

19 MR. LAWITTS: Right. In that case
20 our first challenge becomes to resolve the
21 dispute.

22 CHAIRPERSON WEPRIN: Okay. I will
23 relate that answer to Council Member Jackson.

24 MR. LAWITTS: Thank you.

25 CHAIRPERSON WEPRIN: Chair Vann.

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2 CHAIRPERSON VANN: Yes. Thank you
3 Chair Weprin. Gentlemen, thank you for your time
4 and your testimony and just before you leave I
5 must say this. I can't see that the
6 Administration or any member of this Council could
7 be opposed or against this modest effort to
8 provide some protection for New Yorkers who may be
9 unable and have inadequate income to take care of
10 their basic needs and at least they should know
11 that you will not lose your house because you have
12 not--you're delinquent in paying your water bill.
13 This is what this does. Not everybody, but those
14 who happen to be old, who happen to be seniors,
15 those who happen to be disabled and so forth, this
16 is what this bill is about. We should find a way
17 to make sure that they are not put in a position
18 of losing their home, not because they didn't pay
19 their property tax, because they didn't pay a
20 water bill. This is what this bill does. All
21 this other stuff we want to reform, reform it.
22 But not this piece, we'll just--which is trying to
23 save New Yorkers who live to be 70 or 80 years
24 old, you're not going to lose your house 'cause
25 you can't pay your water bill. This is all this

2 does.

3 It gives your more time, from one
4 year--yes. People pay at the time when there's
5 less time left. Why? Because they're paying
6 Peter to pay Paul. They're paying the bill they
7 have to pay at that moment. So yes they are not
8 going to pay off something where they don't have
9 the money to pay off until it's due. Yes, that's
10 what that is. This is all that this does. And I
11 can't imagine any New Yorker, any human being not
12 understanding what we're trying to accomplish here
13 by this legislation. It's fundamental. It's
14 simple. It's human. That's all that it is.
15 Thank you for your testimony. We appreciate it
16 and we're going to move on. Thank you.

17 MR. LAWITTS: Thank you.

18 CHAIRPERSON WEPRIN: Thank you
19 Chairman. Thank you Commissioner. We'll now hear
20 from Marsha Van Wagoner, Deputy Comptroller for
21 Budget on behalf of New York City Comptroller
22 William Thompson.

23 [Pause]

24 CHAIRPERSON WEPRIN: Deputy
25 Comptroller--

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2 MS. MARSHA VAN WAGONER:

3 [Interposing] Thank you.

4 CHAIRPERSON WEPRIN: --the floor is
5 yours.

6 MS. VAN WAGONER: Good morning--I
7 was going to say good morning, good afternoon,
8 [chuckling] Chairman Weprin and Chairman Vann and
9 members of the Committees for inviting Comptroller
10 Thompson to speak today about Intro 1071 regarding
11 the sale of water liens.

12 I'm Marsha Van Wagoner; Deputy
13 Comptroller for Budget, Comptroller Thompson is
14 unable to appear himself today and sends his
15 regrets.

16 Almost exactly two years ago I
17 appeared before you to express Comptroller
18 Thompson's concerns regarding proposals by the
19 Department of Environment Protection to make more
20 stringent their procedures for collecting water
21 rates. These proposals were spurred by a
22 persistent shortfall in collections of water and
23 sewer fees compared to the growing expenses of the
24 water system.

25 The Comptroller was concerned that

2 the DEP's proposals were not designed in a
3 sufficiently sensitive manner given the many
4 stresses in New York City households stemming from
5 a softening economy and the foreclosure crisis.
6 At that time I conveyed the Comptroller's belief
7 that an appropriately designed water lien sales
8 program was a sensible approach to improving
9 collections, providing that the relevant accounts
10 were accurate.

11 My testimony also noted that lien
12 sales are most appropriate for multifamily
13 dwellings where resorting to water shutoffs would
14 unfairly penalize innocent tenants. In the end
15 the Council agreed that independent water lien
16 sales were an acceptable enforcement mechanism.

17 Intro 1071 improves upon the water
18 lien sales program by broadening protections for
19 home owners for whom the past year has brought
20 little good news. It exempts home owners
21 receiving Enhanced STAR benefits, allows home
22 owners more time to address outstanding water
23 bills both by extending the public notice period
24 and by limiting eligible accounts to those unpaid
25 for three years.

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2 It requires that home owners
3 receive more timely and complete information
4 regarding delinquent accounts and the consequences
5 of lien sales. Furthermore it requires the DEP to
6 be proactive in identifying those home owners
7 eligible for home exemptions that would make them
8 ineligible for inclusion in a lien sale.

9 The Comptroller fully supports
10 these measures. The water system's fiscal health
11 is also a great concern to Comptroller Thompson.
12 Analysis by the City Council Finance staff
13 suggests that the impacts of these provisions on
14 DEP collections will be minimal. Indeed over the
15 past several years Comptroller Thompson has
16 advocated for several ways to improve the fiscal
17 health of the water system.

18 Chief among these, as you know, is
19 his proposal that the City rebate the Water
20 Board's rental payments back to the water system,
21 resulting in containment of water and sewer rate
22 increases and moderation in the growth of the
23 system's crushing debt service costs. The
24 Comptroller has also urged the Water Board to use
25 the current review of the system's rate structure

2 which they initiated in response to his advocacy,
3 as an opportunity for honest and thorough-going
4 reform of the way costs are distributed among
5 users of the system.

6 Furthermore the specter of gas
7 drilling in New York City's watershed, threatens
8 to reverse the progress the City has made in
9 preserving the quality of its west of the Hudson
10 water supply. The Comptroller along with many
11 other officials has called for a ban on drilling
12 in the watershed.

13 Because the members of the Water
14 Board, who in 2008 were most vocally in support of
15 rate payer equity and the ban on gas drilling in
16 the watershed, appear to have been pushed off the
17 Board, the Comptroller also initiated a bill
18 introduced by Assemblyman Brennan and Senator
19 Perkins that would change the composition of the
20 Water Board to lessen the Mayor's lock on its
21 proceedings.

22 The challenges facing the water
23 system are enormous and touch on every person in
24 our City. One of the key issues as we address
25 these challenges is that we not finance the system

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2 by placing unmanageable burdens on our most
3 vulnerable households. Intro 1071 is one step in
4 achieving this balance.

5 Thank you for allowing the
6 Comptroller to share his thoughts on this
7 important piece of legislation. I'm happy to
8 answer any questions you may have.

9 CHAIRPERSON WEPRIN: Thank you
10 Deputy Comptroller and please convey to
11 Comptroller Thompson we appreciate his comments.
12 And also I personally would like to applaud his
13 advocacy on this issue that's come up many, many
14 times during the course of this hearing and many
15 other hearings, and that's the unconscionable
16 excess rental payment that is going into the
17 general fund. And before we talk about imposing
18 additional burdens on home owners and as Council
19 Member Fidler pointed out, the actual amount of
20 collection on these water lien sales is
21 significantly less than the actual amount of the
22 excess rental payment that ratepayers are being
23 gouged by and not realizing that that money is not
24 going for water purposes.

25 So we appreciate Comptroller

2 Thompson's support for this bill. And we
3 appreciate Comptroller Thompson's advocacy on
4 behalf of the water rate payers for so many years.

5 CHAIRPERSON VANN: Ditto.

6 MS. VAN WAGONER: Great. I'll
7 convey that to the Comptroller. Thank you.

8 CHAIRPERSON WEPRIN: Thank you.
9 We'll now hear from a panel of three individuals,
10 if they're here, please come up. If anybody else
11 would like to testify just join us as well. We
12 have April Tyler, Ingrid Faria [phonetic] and
13 Deborah Howard.

14 [Pause]

15 CHAIRPERSON WEPRIN: Okay come up.
16 And if anybody else would like to come up that has
17 not filled out a form, please do so now.

18 [Pause]

19 CHAIRPERSON WEPRIN: Do you have
20 prepared testimony by any chance? You don't need
21 it. You have it? Okay do we have it? Okay.

22 MS. APRIL TYLER: Thank you Council
23 Member Weprin for conducting this important
24 hearing, Council Member Vann for your leadership
25 in support of tax lien reform, and all the Council

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2 Members who are co-sponsors of Intro 1071. I'm
3 April Tyler, a State and Local Campaigns
4 Coordinator at the Neighborhood Economic
5 Development Advocacy Project or NEDAP, a resource
6 and advocacy center that works with community
7 groups to promote financial justice in low income
8 communities and communities of color.

9 With thousands of one to four
10 families' homes on the 2009 lien sale list, the
11 sale of those property tax and water/sewer liens
12 is a massive problem. The liens that were sold
13 are disproportionately concentrated in black and
14 brown communities in the City, those already hard
15 hit by predatory lending, foreclosure and the
16 worsening economy. NEDAP and other organizations
17 around the City receives calls from stressed home
18 owners on a weekly basis who had gotten a notice
19 of tax lien sale and we now receive many calls
20 from home owners who are threatened with
21 foreclosure because of a lien sale.

22 And let me just parenthetically add
23 that the Commissioner's staff said that they start
24 foreclosure proceedings after a year, but in fact
25 based on the 2008 sale, we have been getting many

2 calls from people who are already in foreclosure,
3 not a year later. But they do have the ability;
4 the trust has the ability after you miss the
5 6-month interest payment, to start foreclosure
6 proceedings. And we're seeing that that is
7 happening with increased frequency. So I just
8 wanted to point that out to you. And we get many
9 calls from home owners who are in that situation.

10 Families who are struggling to stay
11 afloat and make ends meet should not have this
12 additional burden placed on them. Amending the
13 Administrative Code of the City of New York in
14 relation to water liens is certainly a good first
15 step to assist struggling home owners preserve
16 their homes.

17 NEDAP supports the amendments
18 included in Intro 1071 that would exempt a broader
19 range of senior citizens and low income home
20 owners from water lien sales; require the
21 Commissioner of Finance to try to identify
22 elderly, disabled and low income home owners who
23 are eligible for such exemptions; give the
24 Commissioner discretion to exempt such home owners
25 from water lien sales; extend to three years the

2 minimum period of partial or full nonpayment of
3 tax liens before a sale may occur; extend to 120
4 days the notice period required before a lien pay
5 be sold; and require the Commission to provide
6 home owners written information on the tax lien
7 sale process and the exemptions available each
8 quarter.

9 Your efforts to limit the damage
10 caused by water lien sales is commendable but we
11 think that further changes are required to protect
12 home owners most at risk of losing their homes and
13 equity because of a lien sale. We feel that the
14 exemptions from the tax lien sale must be expanded
15 to include all owners of one to four families.
16 And I'm not going to read through all of these,
17 I'll just go through the bullets in the interest
18 of time.

19 All exemptions should apply not
20 only to water liens but also to property tax
21 liens. As we all know the law enabling the sale
22 of water and tax liens is sun setting in 2010 so
23 we think that both water lien sales and tax lien
24 sales should be dealt with.

25 Should exemptions of all one to

2 four family homes not be established then home
3 owners who are identified as eligible for
4 exemptions must be removed from the lien sale
5 pool. Now one--I'm just going to tell you about a
6 home owner that we are now working with. He's an
7 elderly gentleman. He and his wife have owned
8 their home for more than ten years. They were
9 current on their mortgage. He suffered an illness
10 and was unable to pay his property taxes for three
11 years. His lien was put into the pool in I think
12 2006. And he now is undergoing foreclosure. This
13 gentleman had an original debt of \$15,700. And
14 you were asking, Council Member Fidler was asking
15 about the charges and what the final number is
16 once they go into foreclosure or pay up the entire
17 debt. Well this gentleman's bill is now--it
18 started out at \$15,700, it's now \$27,000 now that
19 they're processing with the surcharge, the
20 interest payments, the legal fees, all of that,
21 it's \$27,000 now just 3 years later on a \$15,000
22 debt.

23 Luckily my organization runs a
24 foreclosure prevention gap loan program. And we
25 are working with him to try to get all of those

2 excess payments rescinded and to get him a loan so
3 that he doesn't lose his house. And this is an
4 example of someone who should have been exempt.
5 His lien however should have gotten into the pool
6 but it did because he did not self-identify. The
7 agency didn't reach out to him properly so that he
8 could qualify for that exemption.

9 We think that there has to be much
10 more responsibility on the part of DOF and DEP to
11 identify seniors and disabled, and might I add,
12 active duty military, who are eligible to be
13 exempt.

14 The minimum debt owed prior to a
15 lien being sold should be raised to \$5,000. We
16 think even \$3,000 is not enough. It would give
17 home owners a longer period of time to resolve
18 their debt or to figure out financing to pay down
19 their debt. And the amended code must contain a
20 remedy for home owners whose liens are erroneously
21 sold. As it stands now, if a home owner's lien is
22 sold and the City defects the lien, sometimes a
23 home owner incurs charges, the interest payments
24 that have accrued before the City actually gets
25 the lien defected and pulled out. We do not

2 think that home owners should suffer financially
3 because of a mistake by the City.

4 NEDAP worked extensively with many
5 organizations, Community Boards and elected
6 officials in early 2009 to inform home owners of
7 the lien sale. We attended over 45 meetings with
8 in a 4-month period to alert communities and home
9 owners of the upcoming sale, possible exemptions
10 and how to apply if they were eligible. Despite
11 our efforts there were still thousands of tax
12 liens sold; over 4,000 were standalone liens to 1
13 and 3 families. And this number is from the 30-
14 day list, so the number of actual liens that were
15 sold were lower.

16 We are regularly contacted by home
17 owners who are facing foreclosure because of the
18 lien sale. We've been able to help some of them
19 through our foreclosure prevention gap loan
20 program which was originally created to help home
21 owners seeking affordable loan modifications but
22 who needed a small sum of money to complete the
23 transaction.

24 Since the last lien sale, we've
25 been getting more and more calls from advocates

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2 and home owners with unaffordable tax lien bills
3 which threaten their continued home ownership.
4 With so many home owners and neighborhoods
5 suffering during this economic crisis, the same
6 home owners and neighborhoods that are reeling
7 from abusive loans and foreclosure, it is
8 shortsighted to sell liens to investors and enrich
9 Wall Street and the expense of our Main Streets.
10 Thank you.

11 MS. INGRID FARIA: Good afternoon
12 Chairman Vann, Al Vann, and Chairman Weprin. In
13 the interest of time, I'll be brief. I represent-
14 -my name is Ingrid Faria [phonetic] and I'm the
15 Director of Real Estate at Bridge Street
16 Development Corporation.

17 Bridge Street Development
18 Corporation is a faith-based 501[c] nonprofit
19 organization and our mission is to build
20 partnerships with businesses, government and other
21 community stakeholders to provide civic and
22 economic opportunities to the residents of Central
23 Brooklyn. Bridge Street Development is located in
24 the Bedford-Stuyvesant section of Councilman Al
25 Vann's Councilmatic District number 36.

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2 Basically I'm here to put a face of
3 the nonprofit organization that's working with the
4 people that are affected and impacted by this, by
5 this Local Law. We are here in support of
6 Councilman Al Vann and his proposal to provide
7 assistance and protecting the valuable assets that
8 are of our constituents, their homes. Thank you.

9 MR. ERICA GILLIS: Good morning or
10 rather good afternoon. My name is Erica Gillis
11 and I'm a paralegal in the Foreclosure Prevention
12 Project that South Brooklyn Legal Services. Thank
13 you for inviting us today to speak on the proposed
14 Local Law to the Administrative Code in relation
15 to the sale of water liens.

16 For more than ten years the
17 Foreclosure Prevention Project has represented low
18 and moderate income home owners at the risk of
19 losing their home because of abusive lending
20 practices. Through litigation and advocacy we
21 have been able to save hundreds of home owners
22 from foreclosure. As you all know New York City
23 is facing a catastrophe in its low and middle
24 income communities as record numbers of families
25 are at risk of losing their homes, many as a

2 result of predatory sub prime lending.

3 This crisis is devastating home
4 owners and destabilizing neighborhoods,
5 exacerbating the impact of the sub prime lending
6 crisis are the many home owners who are being
7 threatened with foreclosure because of past due
8 property taxes and water liens.

9 In the past year our office has
10 received dozens of calls from home owners, mostly
11 elderly, who have been threatened with foreclosure
12 because of a tax or water lien. Many should have
13 been exempt from the lien sale but either did not
14 receive proper notification or did not understand
15 the notice sent to them. Most of the home owners
16 who have reached out to South Brooklyn paid off
17 their mortgage long ago but struggle to meet their
18 current expenses on a limited income.

19 And if I may provide a
20 parenthetical comment here, although I applaud the
21 Assistant Commissioner's pulling the potential
22 lien where there's a foreclosure pending, in fact
23 for many of our home owners, the foreclosure is
24 the lien. And for the water lien to be sold puts
25 them in a position in which they might lose their

2 house which they would not be in otherwise because
3 they do not have a current mortgage.

4 These are many home owners, as
5 Council Member Vann said who have lived in their
6 homes for 40 and 50 years, paid off the mortgage
7 long ago and are now in trouble solely because of
8 these payments. And so while I certainly applaud
9 those efforts I think they do not go really into a
10 significant way to address what the actual crisis
11 is and the people that we're talking to.

12 Others fell behind because they
13 thought their tax and water bills were being paid
14 by their mortgage companies for those who had
15 mortgages. And I just want to note that excluding
16 the escrow payments from the mortgages was one of
17 the ways that unscrupulous lenders misled
18 vulnerable home owners into believing payments
19 were affordable.

20 These home owners struggling with
21 sub prime and high cost loans often discover too
22 late that their taxes were not being paid. Once
23 tax and water liens are sold to companies like
24 Expand, home owners have a very difficult time
25 avoiding foreclosure. Expand routinely charge 18%

2 interest rates on the debt owed and in our
3 experience refuses to negotiate settlements with
4 home owners who are unable to pay the full amount
5 of the debt and interest owing.

6 And again I just want to comment
7 that I have personally negotiated, attempted to
8 negotiate with Expand a number of times and have
9 almost universally been unsuccessful. It is--once
10 the liens are in that situation it is very, very
11 difficult to assist people.

12 In the interest of time because
13 it's getting late, I'm just going to leave you
14 with the example that I have written here about
15 two elderly and ill home owners who are in--one of
16 whom is in great danger of losing their home
17 because the lien has been sold and the other of
18 whom we managed to get off the sale list for a
19 water lien at the last moment. But if her lien
20 had been sold, she would have potentially lost her
21 home for a debt that was less than 10% of her home
22 value.

23 We applaud the proposed amendments
24 to extend to three years the minimum period of
25 partial or full nonpayment of tax and water liens

2 discreet exemptions set forth in the current code.

3 Most importantly, to broaden the
4 scope of exemption is an equitable solution that
5 will alleviate the crisis in home ownership
6 currently confronting our communities. The
7 efficiency of this approach combined with the
8 substantial benefit that New York City will gain
9 from improved stability and home ownership will in
10 all probability outweigh any costs associated with
11 making more home owners exempt from tax lien
12 sales.

13 Third we recommend that the code be
14 amended to raise to \$5,000 from \$1,000 the minimum
15 tax lien debt required before the lien can be
16 sold. And finally the amended code must contain a
17 remedy for home owners whose tax liens are
18 erroneously sold. And Ingrid has already
19 addressed that.

20 We see a number of home owners who
21 have had their liens sold even though they should
22 not have been and it is very difficult, even
23 though it was not their fault, for them to recover
24 from this situation. We share your sense of
25 urgency in addressing this critical issue.

2 Creative solutions are required to manage the
3 financial crisis that threatens the stability of
4 our communities.

5 We thank you again for inviting us
6 to speak today and look forward to working with
7 the Council to prevent these unnecessary
8 foreclosures.

9 CHAIRPERSON WEPRIN: Thank you very
10 much. I have no questions. I think they're all
11 very thoughtful testimony and I think in some ways
12 improves on Council Member Vann's legislation.
13 Chair Vann?

14 CHAIRPERSON VANN: Yeah I agree. I
15 know I can be improved on, but I can. I thought
16 your testimony was very good and very supportive
17 of what we've done. And at that, I had very
18 modest goals here which I expressed early on with
19 a little bit more passion. And I do thank you for
20 your recommendations. If I could include them I
21 would because I agree with the rationale you
22 experience and how you've articulated those needs
23 of our people in New York. Thank you very much.
24 And we're concluded--

25 CHAIRPERSON WEPRIN: [Interposing]

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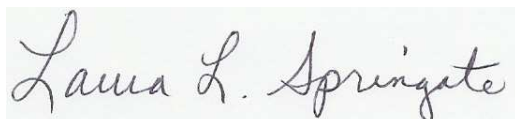
2 Thank you very much. This concludes the Joint
3 Hearing of the Finance Committee and Community
4 Development.

5 [Gavel banging]

6 [END 1002.MP3]

C E R T I F I C A T E

I, Laura L. Springate 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.

A handwritten signature in cursive script that reads "Laura L. Springate". The signature is written in black ink on a light-colored background.

Signature _____Laura L. Springate_____

Date _____October 28, 2009_____