

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON FINANCE,
JOINTLY WITH COMMITTEE ON COMMUNITY DEVELOPMENT

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November 18, 2013
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HELD AT: Committee Room - City Hall

B E F O R E:

DOMENIC M. RECCHIA, JR.
Chairperson
ALBERT VANN
Co-Chairperson

COUNCIL MEMBERS:

Gale A. Brewer
Leroy G. Comrie, Jr.
Lewis A. Fidler
Robert Jackson
G. Oliver Koppell
Darlene Mealy
Karen Koslowitz
James G. Van Bramer
Melissa Mark-Viverito

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

Samara Karasyk
Assistant Commissioner
External Affairs
Department of Finance

Samuel Bufter
Special Project Manager
Department of Finance

Patrick Hendricks
Department of Environmental Protection

Justin Haines
Director of Foreclosure Prevention
Legal Services NYC Bronx

2 CHAIRPERSON RECCHIA: Good afternoon
3 everyone, welcome to the Committee Room in New York
4 City Council Chamber. My name is Domenic M. Recchia,
5 Jr.; I'm the Chair of this wonderful committee; I
6 welcome everybody here today. I'm joined by my good
7 friend Al Vann, the Chairman of the Community
8 Development Committee of the New York City Council.
9 Councilman Al Vann, welcome.

10 At this time I would like to recognize
11 all those members that are joining us -- Council
12 Member Lewis Fidler, Council Member Cabrera and of
13 course, Al Vann, who I already introduced. Did I
14 miss anybody? No.

15 Today is the Committee on Finance hearing
16 on Proposed Int. 1171; this Local Law sponsored by
17 Council Member Al Vann and myself would amend the tax
18 lien to include additional protections for
19 individuals subject to the lien sale. Since the
20 passage of Local Law 15, which reformed the lien sale
21 in 2011, the Council has heard from dozens of
22 constituents and advocacy groups about problems with
23 certain provisions in the law that limit those who
24 can enter into payment agreements for property owners
25 and the provision requiring Department of Finance to

2 mail the property tax exemption eligibility checklist
3 to property owners rather than also requiring them to
4 post it online to accommodate those who do not have
5 adequate or consistent access to their mail.

6 To address these problems, the
7 legislation before us today requires Department of
8 Finance to post the exemption eligibility checklist
9 online and requires Department of Finance and the
10 Department of Environmental Protection to allow
11 eligible persons other than property owners to enter
12 into a payment agreement to prevent the property
13 inclusion into the lien sale.

14 Before we hear from representatives from
15 the administration I wanna thank the Finance Division
16 Lien Team for working on this bill and Dottie Lebron
17 from Council Member Vann's office and also of course,
18 my staff and Tanisha Edwards, Preston Niblack, Jeff
19 Rodus and the whole crew.

20 Now I'll turn to my colleague, Council
21 Member Al Vann.

22 CO-CHAIRPERSON VANN: Thank you, Chair.
23 Good afternoon ladies and gentlemen. As indicated,
24 Committee on Community Development, along with
25 Finance has been working tirelessly to protect

2 vulnerable homeowners from unintended consequences of
3 the lien sale process. At the same time we have
4 endeavored to maintain the ability of the City to
5 efficiently and effectively carry out the necessary
6 collection process.

7 As Chairman Recchia indicated, Local Law
8 15, passed by the Council two years ago,
9 significantly enhanced the rights of homeowners
10 subject to lien sales while protecting the integrity
11 of the city's collection process. The law's reforms
12 were comprehensive in scope and have resulted in a
13 significant reduction of the number of city
14 homeowners who have been subject to the lien sale.

15 For example, the law raised the threshold
16 for properties to be included in the lien sale. It
17 also required by law homeowners to receive proper
18 notice of impending lien sales. It required bill
19 statements to be issued biannually in different
20 languages. It reduced by half the interest rate that
21 lien services charge after a lien sale from 18
22 percent to 9 percent on properties within an assessed
23 value up to \$250,000. It required Department of
24 Finance to provide an exemption eligibility checklist
25 to help make homeowners aware of qualifying

2 exemptions that would exclude them from the lien
3 sale. It also required DOF and DEP to allow
4 homeowners to enter into a payment plan with no down
5 payment, unless the property owner specifies
6 otherwise.

7 Today's hearing regarding Int. 1171-A
8 continues these efforts by adding additional
9 practical taxpayer-focused elements to the lien sale
10 process. As Chairman Recchia mentioned, Int. 1171-A
11 will address two primary issues: (1) the unintended
12 consequences of only permitting property owners to
13 enter into a lien sale payment agreement; and (2) to
14 make more accessible property tax exemption
15 information.

16 Our Committees await testimony as to the
17 efficacy of our latest effort and I'll turn it back
18 to you, brother Chair.

19 CHAIRPERSON RECCHIA: Thank you very
20 much. Now we'll call on the Department of Finance
21 and the DEP to come up and testify. What?
22 [background comment] Just Finance? [background
23 comments] Okay. Alright.

24 SAMARA KARASYK: Good afternoon Chairman
25 Recchia; Chairman Vann and members of the Committee

2 on Finance. My name is Samara Karasyk and I'm the
3 Assistant Commissioner for External Affairs at the
4 Department of Finance. I am joined by Samuel Bufter
5 who is a Special Projects Manager at Finance for the
6 2013 lien sale, and also Patrick Hendricks, with the
7 Department of Environmental Protection.

8 Thank you for the opportunity to testify
9 regarding Int. No. 1171, which would modify some
10 elements of the annual lien sale. I would like to
11 thank the Council for working with us on this
12 proposal; we support its enactment.

13 On May 17th Finance conducted another
14 successful tax lien sale in conjunction with the
15 Departments of Environmental Protection and Housing
16 Preservation and Development, as well as the Office
17 of Management and Budget. The goal of each year's
18 lien sale is to have all eligible lien sale
19 candidates pay their outstanding debts. We wanna
20 make sure that candidates who are not eligible for
21 the lien sale are removed from the process. The sale
22 is our most important tool for collecting unpaid
23 taxes and charges and for ensuring fairness and
24 equity among all property taxpayers.

2 The 2013 lien sale process began in
3 February with a pool of 27,930 eligible properties.
4 In the 90 days that followed we collected more than
5 \$246 million from lien sale-eligible property owners.
6 As a result, liens were sold on only 5,420
7 properties, less than 1 in 5 properties from that
8 original pool.

9 Lien sale candidates that prove their
10 eligibility for certain property tax exemptions,
11 including veterans, disabled and senior citizen
12 homeowner exemptions are removed from the lien sale.
13 When candidates believe they qualify for an exemption
14 they submit an eligibility checklist that is included
15 in each of the four lien sale notices that we mail
16 them. If the checklist indicates that they property
17 owner may qualify, we send an exemption application
18 to the owner, which they can return to us to prove
19 their eligibility.

20 Int. No. 1171 would require the
21 Department of Finance to post the lien sale
22 exemptions eligibility checklist on our website on
23 the first business day after the personal exemption
24 application due date. State Law mandates that March
25 15th is the application deadline. Because the

2 checklist is only for lien sale candidates and not
3 for those who are trying to meet the March 15th
4 deadline, we try to limit the availability of the
5 checklist to owners who are candidates for the lien
6 sale.

7 Last year, at the Council's request, we
8 posted the document online immediately after the
9 personal exemptions deadline; this ensured that the
10 checklist reached the appropriate audience. The bill
11 codifies this practice and makes it permanent.

12 Though we also mail the checklist with lien sale
13 notices four times a year, we agree that posting it
14 online after March 15th is a good way to provide
15 additional access to those who need it.

16 The lien sale law allows for property
17 owners to enter into no money down payment agreements
18 when they are not able to pay all of their debts at
19 once. This year 1,349 property owners entered into
20 payment plans with finance and 81 percent put no
21 money down. Currently the law provides that the
22 owner of a property or someone with legal rights to
23 the property can enter into a payment agreement. In
24 order to ensure consistent application of this
25 requirement, in 2011 we issued written guidance to

2 staff detailing the eligibility requirements for
3 someone not listed on the property's deed. Those
4 eligible include an authorized agent with a notarized
5 power of attorney, a court-appointed guardian or in
6 the event the legal owner has died; the owner's
7 heirs. Int. No. 1171 would require Finance to
8 promulgate rules to codify these requirements,
9 increasing transparency and providing public guidance
10 to those who need it.

11 Since the rule-making process takes at
12 least 90 days, we recommend amending the bill to
13 ensure that we have adequate time to enact these
14 rules. That minor amendment notwithstanding, we
15 fully support this requirement. While we proceed
16 with the rule-making process, we will post our
17 current guidance on the lien sale webpage at least 90
18 days prior to the 2014 lien sale.

19 In closing I would like to thank you,
20 Finance Committee staff and Council Members, for your
21 partnership in this process. The success of the sale
22 would not be possible without the tremendous efforts
23 of our staff and all of you who co-hosted events with
24 us, called individual property owners and answered
25 countless questions regarding the sale. I look

2 forward to working with the Council to schedule
3 outreach events for next year's lien sale.

4 I would be happy to answer your questions
5 at this time.

6 CHAIRPERSON RECCHIA: Thank you very
7 much. Just wanna recognize we're joined by Council
8 Member Koppell. Also, at this time I'll turn it over
9 to my colleague, Al Vann to ask some questions. If
10 any other council member would like to ask questions,
11 please give your name to Miss Tanisha Edwards.

12 CO-CHAIRPERSON VANN: Uh yeah, good
13 afternoon again; seeking clarification. Well since
14 the passage of Local Law 15, the Committees have
15 heard from dozens of constituents and advocacy groups
16 about the provision in the law that requires property
17 owners to enter payment agreements; thus, an
18 individual who is not the property owner or listed on
19 the deed to the property cannot enter into a payment
20 agreement, even though such individual is or has been
21 maintaining payments on the property. This is
22 particularly a problem with children -- and I think
23 you may have indicated that -- children of deceased
24 parents who died without a will or intestate and have
25 not yet added their name to the deed. In these

2 cases, the children of the deceased continue to
3 maintain the property payment, you know, property
4 taxes, water, mortgage, etc., however, they are
5 prevented from entering into a payment agreement with
6 DOF or DEP to avoid a lien sale, if they fell short,
7 you know, of such payments. Now, you have already
8 taken this into consideration; have you refused to
9 allow anyone to enter a payment agreement because
10 such person was not listed on the deed; has that been
11 in the history, the practice? [crosstalk]

12 SAMARA KARASYK: If someone's not listed
13 on the deed but they're an heir -- for example,
14 they're named in the will as someone that now has the
15 legal ownership of that property -- we would allow
16 them to enter into a payment agreement.

17 CO-CHAIRPERSON VANN: Alright. Is there
18 a situation where they may not have gotten to that
19 state; they're not on the deed, they don't have...
20 they're not listed as an heir and they wish to be
21 able to make payment; have you had any of those cases
22 in... [interpose]

23 SAMARA KARASYK: We sometimes do have
24 people come to us that have not yet completed the
25 court process... [interpose]

2 CO-CHAIRPERSON VANN: Okay.

3 SAMARA KARASYK: and usually, if they
4 come to us early enough in the lien sale process we
5 will help them -- explain what they need to do; what
6 they need to get to the court and many times they are
7 able to get what they need to get done in time to set
8 up a payment agreement; I'd say the biggest problem
9 we have is when someone comes to us, say day 89 of
10 the lien sale process and they don't have their court
11 papers in place; there are times that that does
12 happen where someone doesn't have enough time to get
13 that together before the lien sale. So, you know
14 that's why we work with your office and so many of
15 the Council Members' offices to try and get outreach
16 events on as early as possible to make sure that no
17 one gets stuck in that in-between state, because we
18 want them to be able to enter the payment agreement,
19 but we do have rules in place... policies in place that
20 we're going to make into rules to ensure that people
21 are entering into payment agreements in good faith,
22 because we wouldn't want somebody to enter into a
23 payment agreement and then default on it and for that
24 to hurt the property owner... [interpose]

25 CO-CHAIRPERSON VANN: Uhm-hm.

2 SAMARA KARASYK: So that's why we... you
3 know we do have these policies in place; we try and
4 cover everybody; as new situations arise, we try and
5 accommodate those as we can while making sure we're
6 protecting people, you know, from someone entering
7 into a payment agreement not for the right reasons.

8 CO-CHAIRPERSON VANN: Uhm-hm.
9 [background comment] Are the rules with DF the same
10 with DEP; are they... you... or are they different,
11 regardin' this particular issue?

12 PATRICK HENDRICKS: Thank you Committee
13 Chairman, my name is Patrick Hendricks and I am
14 representing DEP. With respect to your question --
15 our rules are slightly different. What we have been
16 doing in the past few months with respect to family
17 members of deceased property owners who were in the
18 lien sale; we dropped them from the lien sale, but we
19 did advise them to the fact that they can make as
20 much payment as they possibly could on those
21 accounts; however, we did not allow them to enter to
22 a formal payment agreement if they did not have any
23 legal documentation from the courts.

24 CO-CHAIRPERSON VANN: Uhm-hm.
25

2 PATRICK HENDRICKS: So we do require
3 legal documentation from the courts, but we stood
4 down with respect to the pushing forward enforcement
5 efforts with respect to the lien sale.

6 CO-CHAIRPERSON VANN: Okay. [background
7 comments] Right. Our legislation, as you know,
8 gives you, the Department of Finance and DOE
9 discretion to determine the eligibility of owners... of
10 persons acting on behalf of owners to enter into
11 these agreements. So will the rules that you have or
12 that you will codify were existing practices or... or...
13 will you make amendments or will you just codify your
14 existing practices and... and uh... [interpose]

15 PATRICK HENDRICKS: We will... we will
16 indeed make some amendments to those rules in the
17 near future, but as of right now, how we currently
18 operate... [interpose]

19 CO-CHAIRPERSON VANN: Right.

20 PATRICK HENDRICKS: we do have provisions
21 for authorized representatives of the owner. But
22 with respect to deceased homeowners and their family
23 members, we did not move forward with enforcement,
24 but we do advise them; we do encourage them to make
25

2 as much payment as they possibly could, but not enter
3 into a formal payment agreement... [interpose]

4 CHAIRPERSON RECCHIA: Uhm-hm.

5 PATRICK HENDRICKS: without that legal
6 authorization from the courts.

7 CHAIRPERSON RECCHIA: Uhm-hm. See this
8 is great... [crosstalk]

9 CO-CHAIRPERSON VANN: Well... yeah, go
10 ahead.

11 CHAIRPERSON RECCHIA: this is great. See
12 this is... what DEP's doin' is exactly what we want
13 Department of Finance to do.

14 CO-CHAIRPERSON VANN: Uhm-hm. Okay.

15 SAMARA KARASYK: Okay. I mean I was just
16 gonna say... [interpose]

17 CO-CHAIRPERSON VANN: Yeah; just before
18 you make that point, and since they may not have made
19 the formal... the formality through the courts, does
20 that mean that you would use some discretion there or
21 they...

22 PATRICK HENDRICKS: Abs... absolutely,
23 because we do... [crosstalk]

24 CO-CHAIRPERSON VANN: You will use some...
25

2 PATRICK HENDRICKS: we do recognize the
3 fact that... it's a lengthy... the probate process is a
4 lengthy process... [interpose]

5 CO-CHAIRPERSON VANN: Uhm-hm.

6 PATRICK HENDRICKS: so we always
7 encourage them, since you're living in the property
8 and you know, bills are obviously coming to the
9 property... [interpose]

10 CO-CHAIRPERSON VANN: Uhm-hm.

11 PATRICK HENDRICKS: we do advise the
12 person, the family member who's living in the
13 property to make as much payment as they possibly
14 could.

15 CO-CHAIRPERSON VANN: Uhm-hm.

16 PATRICK HENDRICKS: So we do advise them.

17 CO-CHAIRPERSON VANN: Right. Now I'm
18 assuming that Department of Finance will accept the
19 decision made by DEP; am I right? I mean D... uh...
20 yeah, DEP.

21 SAMARA KARASYK: Well, as we go through
22 the rule-making process we're certainly gonna work
23 with DEP to make sure that we have, you know,
24 consistency between both of our rules and you know,
25 we'll go through the CAPA [phonetic] process and

2 certainly we'll take comments from people and
3 incorporate that into the rules. We are planning on
4 basing them on our existing guidelines and we're
5 gonna kind of go from there throughout the rule-
6 making process.

7 CHAIRPERSON RECCHIA: So does that mean
8 that you're gonna do what DEP does or you're not
9 gonna do what DEP does?

10 SAMARA KARASYK: I don't know at this
11 time; we're just starting the rule-making process
12 now, so I don't know.

13 [background comments]

14 CO-CHAIRPERSON VANN: Yeah, I'm unclear
15 on what problems there could be; what possible
16 problems do you anticipate?

17 SAMARA KARASYK: Well, we're talking
18 about who can enter into a payment agreement, and so
19 DEP has said that they are consistent with us in
20 terms of they don't allow those people to enter into
21 a payment agreement, which is consistent with
22 Finance's practice.

23 CHAIRPERSON RECCHIA: Yeah, but they pull
24 the lien from the lien sale; you don't.

25 SAMARA KARASYK: That's true.

2 CHAIRPERSON RECCHIA: How come?

3 SAMARA KARASYK: Because we have noticed
4 all of these people repeatedly for years to pay the
5 property taxes -- if someone comes and they wanna pay
6 the property taxes without entering into a payment
7 agreement, anybody can do that. So that's what we
8 do.

9 CHAIRPERSON RECCHIA: I know, but DEP
10 notices... they follow the same procedures. So again,
11 I'll repeat the question -- if DEP could pull it, why
12 can't you pull it? And don't use the notice, 'cause
13 they use notice; they follow the same procedures...
14 [crosstalk]

15 SAMARA KARASYK: Uh we just... we have... we
16 have a different practice.

17 CHAIRPERSON RECCHIA: how come... what is
18 your reason for not pulling it?

19 SAMARA KARASYK: I... our reasoning is that
20 this is somebody who has owed property taxes for a
21 long time; if they're trying to work out a situation
22 so someone can enter into a payment agreement, we
23 work with them to do that and hopefully they will get
24 that in place in order to sign a payment agreement
25 before the lien sale.

2 CHAIRPERSON RECCHIA: This is a big issue
3 to many City Council Members; you know, the intent of
4 this law is never to hurt the people and a lot'a
5 times people fall on hard times and the number one
6 priority should be to help the people and a lot'a
7 times by pulling a lien sale, pulling a piece of
8 property from a lien sale, you could do more good
9 than harm and uhm... [background comment] so we
10 strongly recommend to the Department of Finance that
11 they should pull it and follow, you know... let's try
12 to work together and work with my staff to see how we
13 can make this happen, 'cause the intent is not to
14 hurt people; the intent is to work with them and help
15 them come out of the situation that they are in.

16 We've been joined by Council Member
17 Jackson, Council Member Jimmy Van Bramer and..
18 [background comment] Council Member Vann, I'm sorry
19 for interrupting... [interpose]

20 CO-CHAIRPERSON VANN: Yeah no, no please;
21 we...

22 CHAIRPERSON RECCHIA: This is a big
23 issue.

24 CO-CHAIRPERSON VANN: we're tryin' to... to
25 get the... the kind of response that would make sense

2 for those caught in that situation. An order to show
3 cause is, as you know, a legal device capable of
4 expediting a legal claim before a court. Would the
5 department... both departments accept a judge signed
6 order to show cause as sufficient proof of an
7 occupant's callable [phonetic] claim to act for and
8 enter into a payment agreement with department or
9 water lien sale?

10 SAMARA KARASYK: We would, yes.

11 CO-CHAIRPERSON VANN: You would? Okay,
12 very good.

13 PATRICK HENDRICKS: We would.

14 CO-CHAIRPERSON VANN: You would also?

15 PATRICK HENDRICKS: Yes.

16 CO-CHAIRPERSON VANN: Fine. 'Kay.

17 [background comment] Now so, that then could be
18 codified, right?

19 PATRICK HENDRICKS: Yes.

20 CO-CHAIRPERSON VANN: That... yeah.

21 [interpose]

22 SAMARA KARASYK: That... that is what
23 we're... would codify, absolutely.

24 CO-CHAIRPERSON VANN: Right. Uhm-hm.

25 [background comments]

2 CHAIRPERSON RECCHIA: Council Member
3 Lewis Fidler.

4 COUNCIL MEMBER FIDLER: Thank you Mr.
5 Chairpersons and I would ask that my name be added as
6 a sponsor to this bill. I also wanna thank both
7 agencies; you've been very, very helpful and
8 cooperative to my office, most of the time. Every
9 now and then we get a situation which really falls
10 through the cracks and there just doesn't seem to be,
11 you know, logic to some of the responses that we get
12 and I think this bill addresses some of that.

13 I want to begin by lawyerizing one of
14 Council Member Vann's earlier questions. If someone,
15 you know, has dies intestate, without a will, and an
16 heir comes forward or a... someone who purports to be
17 an heir comes forward, do you allow them to enter
18 into an agreement?

19 SAMARA KARASYK: So usually what happens
20 is -- I'm just looking over -- if there is no one
21 that is named in a will, the Surrogate Court appoints
22 an administrator of the estate. So the
23 administration has to provide documentation showing
24 that a beneficiary of the property has been
25 determined and that the administrator could enter

2 into a payment agreement if the administrator has a
3 power of attorney.

4 COUNCIL MEMBER FIDLER: You see, now
5 that's the problem, okay. I don't know if you've
6 ever been to a Surrogate's Court and tried to jump
7 through all the hoops that are frequently necessary
8 when real property's involved to file an
9 administrator's proceeding, no less to get it
10 approved, or the cost of doing so. The category of
11 people that you're truly missing here are the people
12 who are probably very cash-strapped, but now have an
13 interest in a piece of property, alright, and have to
14 cobble together the money, not only to pay you guys,
15 but to get a lawyer, alright, and get the estate
16 filed when there may actually be no cash and just a
17 piece of property. And of course, once you have the
18 piece of property, cash becomes less of an issue,
19 right, but until you have that piece of property you
20 are really further and further pushing that person or
21 that family behind the eight ball. You know and in
22 many of these cases someone who has died intestate
23 has, you know, not taken care of their affairs for
24 quite a while; that's probably why they're not paying
25 taxes; they may have been ill, they may have been

2 disabled in many different ways and it's just not
3 something that they were capable of doing and the
4 law's got to allow for those people and that is why,
5 you know it sounds to me like this bill has gotta
6 pass.

7 But I also wanna ask you about your
8 process. How many people in your agency are involved
9 before a lien sale dealing with applications or
10 requests to be removed from the sale?

11 [pause]

12 SAMUEL BUFTER: Typically before the
13 period of the... before we send out the 90-day notice
14 we don't really receive very many requests to be
15 removed from the lien sale; it's not until the point
16 at which the 90-day is sent out that people start
17 coming to our Business Centers to discuss entering
18 into a payment agreement and that's when we review
19 whether or not they're eligible to enter into the
20 agreement.

21 COUNCIL MEMBER FIDLER: So you're
22 referring now to the period from the 90-day notice?

23 SAMUEL BUFTER: Right, from the 90-day
24 notice until the actual date of the sale.

2 COUNCIL MEMBER FIDLER: And how many
3 people in your agency deal with people asking to be
4 removed from the sale?

5 [background comments]

6 SAMARA KARASYK: Yeah; I mean it... it
7 crosses many divisions; we have our whole Collections
8 Division, our Exemptions Division; I mean, you know
9 the reasons that people would ask to be removed from
10 the sale; our Outreach Division, our Business Center
11 staff and then there's always some of the operational
12 staff too that are helping run the lien sale, so...

13 [interpose]

14 COUNCIL MEMBER FIDLER: So... so there are
15 a lot of them, right?

16 SAMARA KARASYK: There's a lot of people
17 involved in the lien sale, yeah.

18 COUNCIL MEMBER FIDLER: And... and how many
19 have the actual authority to remove someone from the
20 lien sale? Who signs off on it or how many people
21 can sign off on it?

22 [background comments]

23 SAMARA KARASYK: Okay, so the actual
24 removal from the lien sale, we have to go through the
25 legal process, make sure legal signs off on it and

2 then there are some senior staff members that would
3 actually pull it.

4 COUNCIL MEMBER FIDLER: So it has to be
5 signed off both by senior staff and legal or one or
6 the other?

7 SAMUEL BUFTER: If there's no issue with
8 regards to the name appearing on the deed and there's
9 really no sort of extenuating circumstances, they can
10 enter into the agreements in person at the Business
11 Center, under the authority of supervisions at the
12 Business Center; if there's anything more
13 complicated, such as the case where there's somebody
14 who's deceased, then that's when it needs to be
15 escalated up for senior staff and legal to review.

16 SAMARA KARASYK: But if you're just
17 talking about sort of generally, they meet the terms
18 they pay, they get out of a lien sale, that happens
19 at the Business Center and it's done. So it's only
20 the cases for the payment agreements that get
21 escalated.

22 COUNCIL MEMBER FIDLER: Well that's kind
23 of the issue that I have, which is... how do you train
24 the people who are dealing with the public or an
25 elected official in terms of what your agency will

2 require in terms of on a payment agreement or being
3 removed from the lien sale.

4 SAMARA KARASYK: I mean for payments we
5 have written guidance that we issue to all of the
6 staff that can accept payment agreements, that can
7 sign people up for payments agreements in the
8 Business Centers and our Outreach staff also know
9 what those terms are so that they can educate people
10 and help them get what they need to sign up for the
11 payment agreement. The Outreach staff don't sign
12 people up for payment agreement, but they take their
13 paperwork and pass it along and make sure that it
14 gets processed.

15 COUNCIL MEMBER FIDLER: And you do
16 realize that sometimes these things happen very
17 quickly, right near the deadline, because
18 procrastinators will procrastinate, right?

19 SAMARA KARASYK: Right. And that's one
20 of the reasons why towards the end of the lien sale,
21 you know, apart from doing so many outreach events
22 with the members, you know sort of earlier on, we
23 have all of those last lien sale events in our
24 payment centers and DEP is there and HPD is there and
25 that way we can just get people in, get them to pay

2 what they need to, get them to sign what they need to
3 and that way they're done.

4 COUNCIL MEMBER FIDLER: Well I... I... while
5 I would tell you that most of your representatives do
6 a terrific job most of the time, I can tell you that
7 on multiple occasions for the last lien sale
8 constituents were brought to the Department of
9 Finance by my office, were told that they needed to
10 make a certain payment in order to be removed from
11 the lien sale; they scraped that money together, made
12 that payment and then were told later on that they
13 were in the lien sale 'cause the payment was
14 insufficient. And so I'm kind of wondering, you
15 know, how much you know training, the people who are
16 telling people this are getting; how clear those
17 guidelines are, because I gotta tell ya; I mean those
18 people really felt screwed and you know, I wrote to
19 then Commissioner Frankel and he asked for redress
20 for them; they didn't get it; I mean those people
21 were very unhappy and have every right to be so, and
22 probably didn't have the money to go get a lawyer.

23 [pause]

24 SAMARA KARASYK: I'm aware of the
25 situation and we did... I know we pulled some of those

2 properties and there was a system issue where we
3 hadn't applied the payment to sort of the right place
4 to get them out and we did fix that in those
5 situations. But you know I'm sorry for that
6 frustration; I do understand that that was not how we
7 intended for it to go down. [interpose]

8 COUNCIL MEMBER FIDLER: So are you
9 tellin' me now that if I go back and give you the
10 three or four cases, which I wrote to Commissioner
11 Frankel who told me he could do nothing, that if you
12 had misapplied the payments or had misinformed the
13 taxpayer that their lien sale can be reversed?

14 [crosstalk]

15 SAMARA KARASYK: If we mis... if we
16 misapplied the payments but they paid the right
17 amount, then we did pull them.

18 COUNCIL MEMBER FIDLER: What if they were
19 told the wrong amount and you know, frequently this
20 was with the assistance of my staff. I mean it's not
21 just one... it's not just like yeah, they said that,
22 yeah, you know. I mean why would someone come and
23 know that they would make an insufficient payment to
24 get themselves removed from the lien sale knowing
25 they were gonna be a lien sale anyway; why would they

2 make the payment? Doesn't make any sense, does it?

3 I mean, you wouldn't do it, you know if you were in

4 that unfortunate situation. I'm just kind of

5 pointing out that as... while your agency is frequently

6 very helpful there is an inconsistency that has

7 resulted I think in more than occasional situations

8 where taxpayers got the short end of the stick and

9 were really left without any redress and as long as

10 you're doing regulations now, I think you ought to

11 look at that as to whether or not a situation where

12 someone can establish that they were misinformed as

13 to what payment they had to make to move from the

14 sale can get redress. Thank you.

15 CHAIRPERSON RECCHIA: Thank you Council

16 Member Fidler. We're joined by Council Member Karen

17 Koslowitz; we've been joined by Council Member Gale

18 Brewer. I have a follow up question. An issue that

19 has been brought to us and we've received several

20 e-mails on this issue, is that a lot of times in the

21 centers your staff is not clear telling people that

22 they do not have to put any money down in order to

23 enter into an agreement, alright, and a lot'a people

24 think and a lot'a people on your staff think that you

25 still have to put 10 percent down in order to enter

2 into an agreement; this has been a problem that we've
3 received several e-mails on. What are you doing to
4 educate your staff saying that they can enter into an
5 agreement and it will be pulled from the lien sale?

6 SAMARA KARASYK: I mean every year,
7 before we begin the lien sale process, and I'm
8 surprised to hear this, we do a lot of training with
9 all of our staff that are involved in this so they do
10 know it's zero percent down; I mean as in all years,
11 if there is somebody... you hear from a constituent,
12 please give us a name so we can make sure that that
13 person has the right information; they do all know
14 it's zero percent down and we train them again every
15 year to make sure that they're up on all of the
16 information that they need.

17 CHAIRPERSON RECCHIA: Okay. And to
18 follow up on Mr. Fidler's issue, what happened there
19 was, once they go down to the centers and they are
20 told that, okay, you can enter into an agreement,
21 they enter into agreement right then and there; is
22 that correct?

23 SAMARA KARASYK: Yes, they can do it in
24 the centers.

2 CHAIRPERSON RECCHIA: Okay. And what
3 happens sometimes, right, when they leave they don't
4 leave with a copy of the agreement; that is correct..
5 is that correct?

6 [background comment]

7 SAMARA KARASYK: They should have a copy.

8 CHAIRPERSON RECCHIA: Well, there is, you
9 know, an issue where a person went down there, your
10 computers were down and was told, okay, we'll work
11 out the agreement; our computers are down; you can
12 leave now and we'll enter everything and we'll mail
13 it to you and they never received an agreement in the
14 mail, so I think that's another issue. I mean... so I
15 think it has to be clear so all the Council Members
16 can tell our constituents that when you go down there
17 to work into an agreement, don't leave there unless
18 you have somethin' in writing. So I think that is
19 another big issue that needs to be addressed.

20 Council Member Vann, do you have any other follow-up
21 questions?

22 CO-CHAIRPERSON VANN: No, I think I'm
23 okay.

24

25

2 CHAIRPERSON RECCHIA: Council Member
3 Brewer or Council Member Koslowitz; you like to ask
4 any questions? Anybody? Okay. Thank you very much.

5 PATRICK HENDRICKS: Thank you.

6 CHAIRPERSON RECCHIA: Before you leave,
7 if you could just keep somebody here behind from DEP
8 and Finance, 'cause we have the public testifying;
9 like to hear their concerns are. Thank you very much
10 ladies and gentlemen.

11 Now I wanna take testimony from the
12 public, unless HPD would like to say something.

13 [laughter, background comments]

14 TANISHA EDWARDS: Will now hear from
15 Justin Haines in Legal Services and Moses Gates from
16 ANHD. Anyone who would like to testify at today's
17 hearing, please fill out a witness slip and present
18 it to the Sergeant at Arms so you can testify today.

19 JUSTIN HAINES: Hello, my name's Justin
20 Haines and I'm the Director of Foreclosure Prevention
21 at Legal Services NYC Bronx. I submit testimony
22 today on behalf of Legal Services NYC regarding the
23 amended bill. First we'd like to thank the Council
24 for leadership in addressing fairness in the annual
25 tax and water lien sale and attempting to clarify the

2 rights of heirs to enter payment agreements that
3 would allow them to avoid the lien sale. We
4 understand that there are many challenges in
5 addressing the issue, especially in this time of
6 economic austerity and we thank you for your
7 partnership in the pursuit of justice.

8 I don't think I need to introduce Legal
9 Services NYC and the work that we do around the city,
10 but suffice it to say that we help, you know tens of
11 thousands of New Yorkers, low-income, moderate-income
12 New Yorkers around the city. We also are the largest
13 and oldest provider of foreclosure prevention
14 services in New York City; for more than a decade
15 we've been challenging abusive lending and home sale
16 schemes; we currently operate four dedicated
17 foreclosure prevention projects with approximately 50
18 attorneys and paralegals working in some of the
19 hardest hit neighborhoods in the Bronx, Brooklyn,
20 Queens and Staten Island, and to date we've helped
21 over 7,000 families at risk of losing their home to
22 foreclosure. Therefore we have a very informed
23 perspective on the challenges homeowners face in all
24 aspects of the foreclosure process and in particular,
25 the loss mitigation process.

2 Today I wanna specifically address the
3 difficulties low-income families face when attempting
4 to resolve issues concerning homes inherited from
5 deceased family members. While the proposed
6 legislation is well-intentioned, we believe that as
7 presently amended the bill does not improve heirs'
8 ability to enter pre-lien sale payment agreements,
9 primarily because it leaves the Departments of
10 Finance and Environmental Protection to define heirs'
11 eligibility to enter installment agreements without
12 mandating to find criteria needed to ensure fairness
13 and avoid needless lien foreclosures that adversely
14 affect the fabric of low-income communities across
15 New York City. We believe that certain key changes
16 to the bill can make it far more effective at
17 achieving the good intentions which motivated its
18 proposal.

19 We have been privy and have reviewed the
20 Department of Finance's policy; that policy... if the
21 owner of the property is deceased and there is no
22 will, which is frequently the case in low-income
23 communities, the Department of Finance's policy
24 requires three things: First, it requires that an
25 administration proceeding must be started in

2 Surrogate's Court; second, an administrator of the
3 estate must be named; and third, the administrator
4 must obtain a court order authorizing the
5 administrator to enter the payment agreement.

6 Alternatively, if Surrogate's Court has determined
7 the beneficiary of an estate and the documentation
8 from that court exists, then either the beneficiary
9 may enter the payment agreement or the administrator
10 may enter a payment agreement if they have a valid
11 power of attorney from the beneficiary.

12 This policy, although a principled
13 approach, is unnecessarily burdensome to most low-
14 income heirs seeking to avoid the annual lien sale
15 and ultimately foreclosure. Furthermore, these
16 beneficiaries are not allowed tax exemptions, such as
17 the Senior Citizen Homeowner Exemption, Disabled
18 Homeowner Exemption and Veteran Homeowner Exemption
19 that would reduce their tax burden and help them
20 remain exempt from the annual lien sale.

21 My experience in the Bronx, one of the
22 country's poorest communities, is that most
23 homeowners die without a will. I encountered
24 difficult situations where spouses and children of
25 the deceased are trying to save their home from

2 foreclosure. In our experience, properties facing
3 tax lien foreclosures are rarely encumbered by
4 mortgages, because lenders are typically interested
5 in maintaining their first lien position and will pay
6 the taxes and insurance even if the homeowner has
7 defaulted on the loan in order to avoid a tax lien
8 from taking priority over their claim.

9 In the Bronx, as well as other low-income
10 communities in the city, a home is a significant
11 asset and passing it on to the spouse or children
12 free of a mortgage is a way of transferring wealth in
13 the form of home equity to the next generation. The
14 tax lien sale and subsequent foreclosures on these
15 mortgage-free properties threaten to wipe out the
16 accumulated wealth in much the same way that mortgage
17 foreclosure crisis and the banks withholding
18 principal-reducing modifications are devouring any
19 accumulated equity in these low-income and minority
20 communities.

21 Department of Finance's policy is
22 burdensome for most heirs because it requires that
23 the estate administration proceeding be filed. This
24 requirement is contrary to long-standing common law
25 and case law that establishes that the title to real

2 estate upon death of the owner vests immediately in
3 his heirs and devisees and at common law they took it
4 free from his general debts; it can be taken for the
5 payment of debts now only by virtue of statutes and
6 the statutory provisions must be strictly pursued in
7 order to justify its sale.

8 Although this principle that heirs rights
9 in real property of their deceased family members is
10 immediate upon the death of the owner, Department of
11 Finance's current policy does not acknowledge that
12 heirs are immediately vested with a legal interest in
13 the property and instead forces heirs to have their
14 rights validated through a time and money-intensive
15 court proceeding. For low-income New Yorkers,
16 starting a state proceeding is difficult, to say the
17 least.

18 First, free legal service providers
19 generally are unable to provide such services and
20 there is a dearth of resources available to the low-
21 income communities that require them. Indeed, when
22 our clients have required such services in the Bronx,
23 I've sought out pro bono assistance from the private
24 bar, usually without success.

2 Another option is to involve the public
3 administrator to commence an estate administration.
4 Although the public administrator will handle the
5 matters necessary to resolve the estate and
6 distribute its assets, the public administrator is
7 entitled to a fee for its services equal to 6 percent
8 of the estate when the estate is less than \$750,000
9 or less. In a case involving a home that's \$500,000
10 that means the fee to the public administrator is at
11 least \$30,000. For low-income families incurring
12 such an expense effectively can force the sale of the
13 home.

14 The cost of administration proceedings,
15 furthermore, are also much higher than other court
16 proceedings. The administration filing fee is \$625
17 for estates valued between \$250 and \$500,000 and the
18 fee can be \$1,250 for estates of \$500,000 or larger.
19 It's not uncommon to have multi-family homes worth
20 \$500,000 or more in New York City, even in these low-
21 income communities. While New York does have a small
22 estates program, it's for estates valued at \$30,000
23 or less and if there's real property it's not
24 applicable.

2 Furthermore, because the administrator of
3 the estate acts as a fiduciary, the administrator is
4 also required to post a bond to protect the
5 beneficiaries of the estate in the event that he or
6 she fails to perform his or her fiduciary duties
7 faithfully and this is another obstacle to low-income
8 heirs attempting to comply with the requirements for
9 the administration of an estate. Bonds are not easy
10 to get and like a loan, are dependant on the
11 applicant's financial ability and credit score.

12 I'd like to highlight how difficult these
13 administration proceedings are by sharing three cases
14 from my office that we're currently handling. In the
15 first case my client, Thomas, is a 64-year-old
16 disabled veteran who is the sole heir to his parents'
17 property in Riverdale in the Bronx; the home is
18 valued by the Department of Finance at \$900,000.
19 Thomas lives in his parents' home, but when some of
20 the bank accounts he inherited from his mother dried
21 up he found it difficult to keep up with the water,
22 electricity and property taxes because he's
23 unemployed and perhaps unemployable, since like many
24 disabled veterans, he suffers from mental health
25 issues, leaving him to panhandle for cash every day.

2 I first encountered his case when his neighbor and
3 childhood friend came to our foreclosure court clinic
4 in an effort to help him avoid the lien sale by
5 assisting him in completing the application for the
6 veterans and senior homeowner tax exemptions. When I
7 started working with him it became clear that he had
8 an anxiety disorder and he could not stay in the
9 office for more than 20 minutes or so. We were able
10 to help him get food stamps and a copy of his
11 military discharge records. However, because he was
12 not the record owner of the property his application
13 for a tax exemption was denied. I began looking into
14 his estate issues; it turns out that he had started
15 an administration proceeding in 1997 but it was never
16 completed. He was granted letters of administration,
17 but was required to post a \$50,000 bond, which he was
18 unable to do. So he lived in the mortgage-free home
19 over the 15 years, using some of his late mother's
20 bank accounts to pay for those monthly bills. His
21 property tax arrears were sold as part of the annual
22 lien sale and two months ago a foreclosure action was
23 started against his mother's estate. After the lien
24 sale last year I argued on his behalf for recognition
25 of his rights in the property and his entitlement to

2 the exemption. I sent Department of Finance
3 documentation, including the letters of
4 administration and his petition for administration in
5 which he disclosed that he was the only heir to the
6 property, but Department of Finance was unmoved and
7 refused to recognize him as the property owner. He
8 now faces the loss of his home worth \$900,000 because
9 of a tax lien-related indebtedness of \$44,000. We
10 have engineered a solution in this case, but no
11 thanks to the Department of Finance. Rather, Thomas
12 is applying for a reverse mortgage that'll give him
13 funds to pay off the tax lien foreclosure and provide
14 him a steady stream of income. The reverse mortgage
15 company is working with a title agency that will
16 accept a new deed from the estate, along with an
17 affidavit of heirship from him documenting that he is
18 the sole heir, all outside the administration
19 proceeding he started 15 years ago.

20 Another client of ours, Carol, has been
21 in foreclosure for a tax lien for over three years.
22 Carol is 62 years old, suffers from early onset
23 Alzheimer's and relies on a fixed income of
24 disability benefits. She too is resolving the estate
25 issue and tax lien foreclosure by working with the

2 same reverse mortgage company and she's closing on
3 her loan this Wednesday. If we had not had a
4 sympathetic judge who granted multiple adjournments
5 over several years, this solution would not have been
6 possible, as she only recently turned 62 and became
7 eligible for the reverse mortgage.

8 A third client of ours who's dealing with
9 tax lien problems is a veteran named Jeffrey who
10 suffers from post-traumatic stress disorder and is
11 also bipolar. We assisted him, along with the help
12 from CUNY Law School to finish the administration
13 proceeding he started on his own and we were able to
14 transfer the property into his name in a new deed;
15 unfortunately, it took over two years for the estate
16 to be resolved and there's still a \$25,000 property
17 tax lien that needs to be paid. He's too young for a
18 reverse mortgage and he's applying for a traditional
19 mortgage to pay off the tax lien. Unfortunately he's
20 having a very difficult time getting a conventional
21 mortgage because, since the mortgage crisis, mortgage
22 underwriting has become far more stringent and he
23 relies on veteran disability benefits when he goes
24 back to school. His lack of significant income is a
25 barrier to obtaining the mortgage he needs to pay off

2 this property tax debt and he may be forced to sell
3 the property if he cannot secure a mortgage. If he
4 could have entered into a pre-sale installment
5 agreement it would've been easier, as he would not
6 have to undergo traditional underwriting process
7 that's associated to mortgages.

8 I wanted to share these stories with you
9 to illustrate that our most vulnerable homeowners for
10 whom these exemptions were specifically designed are
11 the ones facing the loss of their most significant
12 asset and stable housing due to tax lien foreclosures
13 that intertwined with estate issues. It has been
14 extremely hard for them to get through the
15 administration process and to comply with the
16 Department of Finance requirements for entering into
17 payment agreements. The barriers erected by
18 Department of Finance are especially difficult to
19 understand, given that these heirs have immediate
20 rights in their properties upon the death of the
21 owner and the Department of Finance's unwillingness
22 to enter payment agreements with heirs without court
23 orders is simply inexplicable.

24 CHAIRPERSON RECCHIA: Okay, you must sum
25 up... [crosstalk]

2 JUSTIN HAINES: Okay, I... I just have
3 suggestions, I'm almost done; I... [crosstalk]

4 CHAIRPERSON RECCHIA: Yeah, so the
5 suggestion is... what's your suggestion and I'll tell
6 you what I... go ahead.

7 JUSTIN HAINES: Okay. Three suggestions:
8 We agree with you; we think like the Department of
9 Environmental Protection, that liens should be
10 exempted when it involves an estate issue; it gives
11 the family time to start to seek out legal resources
12 to resolve the issue of... [crosstalk]

13 CHAIRPERSON RECCHIA: We've been joined
14 by Council Member Darlene Mealy and Council Member
15 Leroy Comrie. Go head.

16 JUSTIN HAINES: Okay, so exempting them
17 from the lien sale seems to give people the needed
18 time to seek out resources to resolve the complicated
19 issue, because these estate... you know, they made it
20 seem like -- oh, you just apply to Surrogate's Court,
21 but as Councilman Fidler pointed out and as,
22 hopefully, I've pointed out, it's a very difficult
23 thing to find a lawyer, especially if you don't have
24 a lot of money and these are cash-strapped people.
25 So I would suggest that the bill be amended to exempt

2 people with estate issues, you know, maybe for a
3 given number of years so that families can resolve
4 this. [background comment] Second of all, they need
5 to lower the standard for entering into a payment
6 agreement, that you don't need to have a court order
7 from Surrogate's Court authorizing someone who
8 identifies that they're an heir; there are other
9 documents that they can show that prove that they're,
10 you know, under the intestacy statute of New York --
11 that they're a wife, a child... [interpose]

12 CHAIRPERSON RECCHIA: a Death
13 certificate, marriage certificate... [crosstalk]

14 JUSTIN HAINES: marriage certificate...
15 marriage certificate and the death certificate, along
16 with an affidavit that says this is who I am and this
17 is why I'm entering into this payment agreement.
18 It's already illegal to file a false document with a
19 government agency, so that whole point about, you
20 know, we want them to be entering in good faith;
21 these people wanna pay the debt and the City should
22 let them pay the debt; it's only to the benefit of
23 the estate.

24 CHAIRPERSON RECCHIA: So you sat here and
25 heard DEP; DEP says they pull it for a year to give

2 opportunity a chance... you know, to give the person a
3 chance, so would that be satisfactory if we did that
4 for the Department of Finance?

5 JUSTIN HAINES: I would almost say two
6 years is better, because even in a sole heir situa...
7 [interpose]

8 CHAIRPERSON RECCHIA: Now you're pushin'
9 it.

10 JUSTIN HAINES: I know. But yes, of
11 course, one year is better than no years.

12 CHAIRPERSON RECCHIA: Well you know what,
13 maybe we give one year with an extension of another
14 year if they show that it's the court's issue...
15 there's issues with the court or papers; you know, we
16 don't want somebody to sit on this for another year.

17 JUSTIN HAINES: Right.

18 CHAIRPERSON RECCHIA: The other issue is...
19 to address this problem, is by listing out... is that
20 if someone is an heir or a relative automatically
21 they could get the lien sale pulled.

22 JUSTIN HAINES: Right. Uhm... [interpose]

23 CHAIRPERSON RECCHIA: That would also
24 resolve the issues that you're talkin' about; is that
25 correct? [crosstalk]

2 JUSTIN HAINES: Exactly. Exactly. The
3 other thing that came to me while listening to their
4 testimony, but is not included in my testimony, is
5 that maybe there should be... you know, people should
6 receive a denial notice when they have been denied a
7 payment agreement because of due process concerns
8 about notice and a right to be heard; perhaps
9 additionally, if you've been denied an exemption or
10 if you've been denied a payment agreement you should
11 also be given some kind of opportunity to challenge
12 that determination by the city in a less formal
13 process than going to court, some kind of hearing.

14 CHAIRPERSON RECCHIA: Yeah, they should
15 be able to come before the Finance Committee.

16 [laughter, background comments]

17 CHAIRPERSON RECCHIA: Okay, you have some
18 good ideas; I wanna thank you for coming. Does
19 anyone have any questions; Mr. Fidler? He addressed
20 many of your issues?

21 [background comments]

22 CHAIRPERSON RECCHIA: We tal... no.

23 [background comment]

24 CHAIRPERSON RECCHIA: He's very good.

25 [laughter]

2 CHAIRPERSON RECCHIA: You should hire him
3 as the borough president of Manhattan. [laughter,
4 background comments] Okay, so...

5 JUSTIN HAINES: Well thank you for this
6 opportunity; it's really important... [crosstalk]

7 CHAIRPERSON RECCHIA: You have any
8 questions, Mr. Vann?

9 CO-CHAIRPERSON VANN: No, he... he's good.

10 CHAIRPERSON RECCHIA: Anybody have any
11 questions? Okay. Thank you very much. [crosstalk]

12 JUSTIN HAINES: Thank you.

13 CHAIRPERSON RECCHIA: Well, that
14 concludes today's hearing... [background comment] does
15 anyone else have anything to say? Eric you would
16 like to address anything?

17 [background comments]

18 CHAIRPERSON RECCHIA: Okay. [crosstalk]

19 CO-CHAIRPERSON VANN: Yeah, just be... just
20 before we go, I just want to indicate that we did
21 have testimony from the Brownstones of Bedford
22 Stuyvesant for the record, very extensive and rather
23 significant and I wanna thank them on the record for
24 being such an outstanding partner within my
25

2 community, as we've been dealing with this for some
3 12 years now. [background comment]

4 CHAIRPERSON RECCHIA: Okay. Thank...

5 CO-CHAIRPERSON VANN: Brownstones of
6 Bedford Stuyvesant, Inc.

7 CHAIRPERSON RECCHIA: Thank you very
8 much, Council Member Vann; this meeting is adjourned.

9 [gavel]

10 [background comments]

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C E R T I F I C A T E

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



Date December 14, 2013